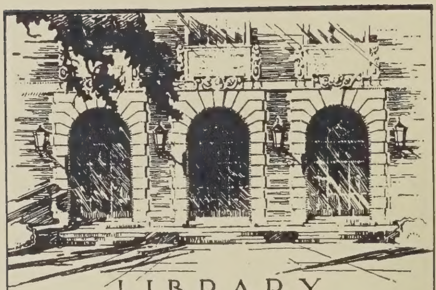
341.1
Un4c

COMMENTS AND PROPOSED AMENDMENTS CONCERNING THE DUMBARTON OAKS PROPOSALS

Submitted by the Delegations to
THE UNITED NATIONS CONFERENCE
ON
INTERNATIONAL ORGANIZATION

May 7, 1945



LIBRARY
OF THE
UNIVERSITY
OF ILLINOIS
341.1
Un4c

COMMENTS AND PROPOSED AMENDMENTS CONCERNING THE DUMBARTON OAKS PROPOSALS

CONTENTS

DELEGATION	DOCUMENT No.
Australia	Doc. 2, G/14(1)
Belgium	Doc. 2, G/7(k)(1)
Bolivia	Doc. 2, G/14(r)
Brazil	Doc. 2, G/7(e)
	Doc. 2, G/7(e)(1)
	Doc. 2, G/7(e)(2)
	Doc. 2, G/7(e)(3)
	Doc. 2, G/7(e)(4)
Brazil — Dominican Republic — Mexico	Doc. 2, G/25
Canada	Doc. 2, G/14(t)
Chile	Doc. 2, G/7(i)
	Doc. 2, G/7(i)(1)
Chile — Columbia — Costa Rica — Ecuador — Peru	Doc. 2, G/28
China	Doc. 1, G/1(a)
	Doc. 2, G/14(q)
China — Union of Soviet Socialist Republics — United Kingdom — United States	Doc. 2, G/29
Colombia	Doc. 2, G/14(s)
Chile — Colombia — Costa Rica — Ecuador — Peru	Doc. 2, G/28
Costa Rica	Doc. 2, G/7(h)
	Doc. 2, G/7(h)(1)
Chile — Colombia — Costa Rica — Ecuador — Peru	Doc. 2, G/28
Cuba	Doc. 2, G/14(g)
	Doc. 2, G/14(g)(1)
	Doc. 2, G/14(g)(2)
	Doc. 2, G/14(g)(3)

341.1
Un4c

DELEGATION	DOCUMENT No.
Czechoslovakia	Doc. 2, G/14(b)
Dominican Republic	Doc. 2, G/14(o)
Brazil — Dominican Republic — Mexico	Doc. 2, G/25
Ecuador	Doc. 2, G/7(p)
Chile — Colombia — Costa Rica — Ecuador — Peru	Doc. 2, G/28
Egypt	Doc. 2, G/7(q)(1)
El Salvador	Doc. 2, G/14(j)
Ethiopia	Doc. 2, G/14(n)
	Doc. 2, G/14(n)(a)
France	Doc. 2, G/7(o)
	Doc. 2, G/7(o)(1)
	Doc. 2, G/7(o)(2)
	Doc. 2, G/26(a)
Greece	Doc. 2, G/14(i)
Guatemala	Doc. 2, G/7(f)
	Doc. 2, G/7(f)(1)
Haiti	Doc. 2, G/7(b)
	Doc. 2, G/7(b)(1)
Honduras	Doc. 2, G/7(m)
India	Doc. 2, G/14(h)
Iran	Doc. 2, G/14(m)
Lebanon	Doc. 2, G/14(c)
Liberia	Doc. 2, G/14(a)
Mexico	Doc. 2, G/7(c)(1)
Brazil — Dominican Republic — Mexico	Doc. 2, G/25
Netherlands	Doc. 2, G/7(j)
	Doc. 2, G/7(j)(1)
	Doc. 2, G/7(j)(2)
New Zealand	Doc. 2, G/14(f)
	Doc. 2, G/14(f)(1)
	Doc. 2, G/14(f)(2)
Norway	Doc. 2, G/7(n)(1)
Panama	Doc. 2, G/7(g)
	Doc. 2, G/7(g)(1)
	Doc. 2, G/7(g)(2)

6 July 66 J-History - Lib

DELEGATION	DOCUMENT No.
Paraguay	Doc. 2, G/7(1)
Peru	Doc. 2, G/14(u)
Chile — Colombia — Costa Rica — Ecuador — Peru	Doc. 2, G/28
Philippine Commonwealth	Doc. 2, G/14(k)
Turkey	Doc. 2, G/14(e)
	Doc. 2, G/14(e)(1)
Union of South Africa	Doc. 2, G/14(d)
	Doc. 2, G/14(d)(1)
	Doc. 2, G/14(d)(2)
Union of Soviet Socialist Republics	Doc. 2, G/14(w)(1)
China — Union of Soviet Socialist Republics — United Kingdom — United States	Doc. 2, G/29
United Kingdom	Doc. 2, G/14(p)
	Doc. 2, G/14(p)(1)
	Doc. 2, G/26(d)
China — Union of Soviet Socialist Republics — United Kingdom — United States	Doc. 2, G/29
United States	Doc. 2, G/14(v)
	Doc. 2, G/26(c)
China — Union of Soviet Socialist Republics — United Kingdom — United States	Doc. 2, G/29
Uruguay	Doc. 2, G/7(a)(1)
Venezuela	Doc. 2, G/7(d)(1)

Brazil — Dominican Republic — Mexico	Doc. 2, G/25
Chile — Colombia — Costa Rica — Ecuador — Peru	Doc. 2, G/28
China — Union of Soviet Socialist Republics — United Kingdom — United States	Doc. 2, G/29

The United Nations Conference
on International Organization

GENERAL

Doc. 2 (ENGLISH)
G/14(1)
May 5, 1945

AMENDMENTS TO THE DUMBARTON OAKS PROPOSALS SUBMITTED ON BEHALF OF AUSTRALIA

In the following memorandum of the amendments to be submitted on behalf of Australia, the proposals have been distributed as between the four Commissions of the Conference. The memorandum does not deal with points of mere drafting.

COMMISSION I (General Provisions)

Chapter I (Purposes)

1. Paragraph (2) to be amended to read as follows:

"2. To develop friendly relations among nations and to take other appropriate measures to strengthen universal peace and promote justice and the rule of law in international affairs."

2. Paragraph (3) to be amended to read as follows:

"3. To promote human welfare in all lands; and to that end to promote international co-operation in the solution of economic, social, cultural and other like problems."

Chapter II (Principles)

3. Paragraph (4) to be amended to read as follows:

"4. All members of the United Nations shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any member or State, or in any other manner inconsistent with the purposes of the United Nations."

Chapter III (Membership)

4. The present text to be amended to read as follows:

"Membership of the United Nations shall be open to any State which accepts the obligations of this Charter and which is admitted to membership in accordance with the Charter."

(Note: Specific reference will also be required to the founder members of the United Nations.)

Chapter IV (Principal Organs)

5. New paragraph (d) to be added as follows (with consequential changes):

"(d) An Economic and Social Council."

Chapter XI (Amendments)

6. Chapter XI (Amendments) to be amended to read as follows:

"This Charter may be amended by a resolution of the General Assembly which is -

(a) adopted by a two-thirds majority of the General Assembly, and confirmed by a like majority at the next session of the General Assembly; and

(b) concurred in on each occasion by at least three of the permanent members of the Security Council.

COMMISSION II (General Assembly)

Chapter V (General Assembly)

7. Paragraph 1 of Section (B) (Functions and Powers) to be amended to read as follows, (with consequential changes):

"(1) The General Assembly may consider, and may make such recommendations as it thinks fit with regard to, any matter affecting international relations (including the principles governing disarmament and the regulation of armaments); provided that, while in relation to any dispute or situation the Security Council is exercising the functions assigned to it under Chapter VIII, the General Assembly may not, unless on the request of the Security Council, make any recommendation with regard to that dispute or situation.

"(2) When the Security Council commences to exercise its functions in relation to any dispute or situation, and also when it has ceased to do so, the Secretary-General shall immediately notify the General Assembly through its President. The President of the General Assembly may at any time require the Secretary-General to report on the position of any dispute or situation before the Security Council. If the General Assembly by a three-fourths majority is of opinion having considered the Secretary-General's

report, that the Security Council has ceased to exercise its functions in relation to the dispute or situation, it may proceed to make any recommendation it thinks fit with regard thereto."

8. Paragraph (2) to be amended to read as follows:

"(2) The General Assembly may admit new members to the United Nations; provided that the General Assembly shall not, without the recommendation of the Security Council, admit to membership a State which, at any time since 1st September 1939, has been at war with any member of the United Nations."

9. The last sentence in paragraph (3) to be amended to read as follows:

"The General Assembly may expel from the United Nations any member which wilfully violates any principle or undertaking contained in this Charter."

10. The second sentence in paragraph (4) to be amended to read as follows (consequential change in Chapter X):

"It may elect the Secretary-General of the United Nations, the election being subject to confirmation by a majority of seven members of the Security Council** and by a majority of ten members of the Economic and Social Council."

** If the amendment proposed in par. 20 below is accepted, the reference to "a majority of seven members" of the Security Council will not be required in this amendment.

11. Paragraph (5) to be amended to read as follows:

"The General Assembly shall direct the preparation of the budget of the United Nations by the Secretary-General, shall provide for the examination of the budget by an expert advisory agency, shall approve the budget and shall apportion among the members the expenses of the United Nations."

12. Paragraph (6) to be amended to read as follows:

"The General Assembly shall be responsible for initiating studies and making recommendations -

(a) for adjusting situations likely to impair the general welfare;

474

(b) for promoting, in particular where appropriate through the Economic and Social Council, international co-operation in the political, economic, social, cultural and other like fields, with a view to the advancement of human welfare; and

(c) for promoting the development and revision of the rules and principles of international law."

13. After paragraph (2) of Section (C), a new paragraph to be added, as follows:

"(3) A member of the United Nations shall be disqualified for voting in the election to fill the non-permanent seats in the Security Council if -

(a) under paragraph (4) of Section (A) of Chapter VI ** it is itself ineligible for election to the Security Council; or

(b) its contribution to the expenses of the United Nations is in arrears beyond a period to be prescribed by the General Assembly."

** as proposed to be amended; see par. 19 below.

Chapter IX (Arrangements for International Economic and Social Co-operation)

14. Paragraph 1 of Section (A) to be amended to read as follows:

"With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations amongst nations, the United Nations shall be responsible for making continuous studies of economic and social conditions; for promoting the solution of international economic, social, cultural and other like problems; and for promoting respect for human rights and the observance by all members of fundamental freedoms. Responsibility for the discharge of these functions shall be vested in the General Assembly and, under the authority of the General Assembly, in an Economic and Social Council."

15. At the end of Section (A), the following new paragraphs to be added.

"(3) All members of the United Nations pledge themselves to take action both national and international for the purpose

of securing for all peoples, including their own, improved labour standards, economic advancement, social security and employment for all who seek it; and as part of that pledge they agree to take appropriate action through the instrumentality of the General Assembly, the Economic and Social Council, the International Labour Organisation, and such other bodies as may be brought into relationship with the United Nations.

"(4) All members of the United Nations undertake to report annually to the General Assembly upon the action they have taken in fulfilment of the pledge set forth in paragraph (3), and generally upon the action they have taken in relation to the recommendations of the Economic and Social Council."

16. Paragraph 1 of Section (C) to be amended to read as follows:

"(1) The Economic and Social Council shall have power -

(a) to carry out, within the scope of its functions, recommendations of the General Assembly;

(b) to make, on its own initiative, recommendations to the General Assembly or to individual members of the United Nations with respect to international economic, social, cultural and other like matters, for the advancement of human welfare;

(c) to receive and consider reports from the economic, social and other organisations or agencies brought into relationship with the United Nations, and to coordinate their activities through consultations with, and recommendations to, such organisations or agencies;

(d) to initiate, for promoting the economic and social objectives declared in this Charter, the making of conventions (subject always to ratification by the members of the United Nations in accordance with their constitutional processes) with respect to matters not being dealt with by any of the specialised organisations or agencies that are brought into relationship with the United Nations;

(e) to examine the administrative budgets of such specialised organisation or agencies, with a view to making recommendations to the organisations or agencies concerned;

(f) to call together through the President of the General Assembly, if circumstances arise which in the opinion of the Economic and Social Council create an economic emergency, all or any members of the United Nations as it deems necessary, with a view to considering and recommending action for safeguarding and promoting the economic and social objectives of this Charter;

(g) to furnish information through the Secretary-General to the Security Council;

(h) to assist the Security Council upon its request; and

(i) to perform such other functions within the general scope of its competence as may be assigned to it by the General Assembly."

17. In Paragraph 1 of Section (D), a new opening sentence to be inserted as follows:

"The Economic and Social Council shall be so organised as to be able to function continuously, each State member of the Economic and Social Council being permanently represented at the headquarters of the United Nations."

Territorial Trusteeship
Proposal for a new Chapter

18. A new chapter to be added as follows:

"Chapter -; (Dependent Peoples)

(1) All members of the United Nations responsible for the administration of dependent territories recognise in relation to them the principle of trusteeship - viz. that the main purpose of administration is the welfare of the dependent peoples and their economic social and political development.

(2) A member of the United Nations administering any dependent territory to which this paragraph applies undertakes to make reports upon its administration of that territory to an expert commission with advisory functions, to be established by or under the authority of the General Assembly. The commission shall keep the United Nations informed, through the Economic and Social Council, as to the welfare and development of the peoples of the territories to which this paragraph applies.

(3) The territories to which paragraph (2) applies shall be declared either by the voluntary action of the member administering the territory or by the General Assembly, after consideration of the recommendations of a conference or conferences, specially convened by the United Nations, of members responsible for the administration of dependent territories.

(4) The General Assembly may authorise the acceptance of mandates on behalf of the United Nations for the administration of particular territories, in each case by a specified member.

(5) The terms of the mandate shall in each case be defined by agreement between the General Assembly and the mandatory State, and shall include the principle of trusteeship as defined in paragraph (1) and the obligation to report provided for in paragraph (2).

(6) Paragraph (2) shall not apply to such bases or areas in dependent territories as the General Assembly on the recommendation of the Security Council declares to be of special importance for the maintenance of international peace and security.

(7) The General Assembly on the recommendation of the Security Council may remove from existing mandates such military restrictions as are in its opinion prejudicial to the security of the mandated territory or of the United Nations generally.

COMMISSION III (Security Council)

Chapter VI (Security Council)

19. Section (A) (Composition) to be amended to read as follows:

"(1) The Security Council shall consist of eleven members of the United Nations.

(2) The United States of America,
The United Kingdom of Great Britain and North Ireland,
The Union of Soviet Socialist Republics,
The Republic of China,
The Republic of France,
shall be permanent members of the Council.

474

(3) The General Assembly shall elect six members to non-permanent seats. The election shall be made to the non-permanent seats from among those members which, by their past military contribution to the cause of world security, have proved able and willing to assume substantial security responsibilities, or which are willing, and by virtue of their geographical position in relation to regions of primary strategical importance are able, to make a substantial contribution to the maintenance of international peace and security.

(4) No member shall be eligible for election to a non-permanent seat unless it has, within two years of the coming into force of this Charter, or such period as the Security Council may deem reasonable, entered into a special agreement in accordance with the provisions of paragraph (5) of Section (B) of Chapter VIII.

(5) The term of office of the six members of the Security Council elected to fill the non-permanent seats shall be two years, except that three of the original members, to be chosen by lot immediately after the first election, shall hold office for one year only.

(6) No retiring member of the Security Council shall, without the permission of the General Assembly, be eligible for re-election for the immediately succeeding term.

(7) Each member of the Security Council shall be represented in the Security Council by a person appointed from time to time by that member."

20. Section (C) (Voting) to read as follows:

"(1) Each member of the Security Council shall have one vote.

(2) Except as otherwise expressly provided, a decision of the Security Council may be made upon the affirmative vote of seven members.

(3) In decisions of the Security Council under Section (A) of Chapter VIII and under the first paragraph of Section (C) of Chapter VIII, a party to a dispute shall abstain from voting.

(4) Under Section (B) of Chapter VIII, a decision of the Security Council shall require the affirmative vote of seven members, including the five permanent members. Under paragraph (2) of Section (C) of Chapter VIII, a decision of the Security Council shall require the affirmative vote of seven members, including at least three of the permanent member."

Chapter VIII (Maintenance of International Peace and Security)

21. Paragraph (5) of Section (A) to be amended to read as follows:

"(5) At any stage of a dispute of the nature referred to in paragraph (3) above, the Security Council may recommend to the parties such procedures or conditions of settlement as appear to it to be just."

22. Paragraph (6) of Section (A) to be amended, subject to the adoption of the amendment proposed in paragraph 29 below, to read as follows:

"(6) In appropriate cases the Security Council shall ensure that the International Court of Justice is invoked in accordance with paragraph (4) of Chapter VII, and in general the Security Council shall avail itself to the maximum extent of the services of the Court in the settlement of disputes of a legal character, in obtaining advice on legal questions connected with other disputes, and in the ascertainment of disputed facts."

23. After paragraph (6) of Section (A), a new paragraph to be added, as follows (with consequential changes):-

"(7) If the Security Council determines that the continuance of a situation is likely to endanger the maintenance of international peace and security, it shall have the same powers in relation to that situation as it would have had if the situation had already given rise to a dispute."

24. Paragraph (1) of Section (B) to be amended to read as follows:

"(1) Should the Security Council deem that a failure to settle a dispute in accordance with the procedures indicated in paragraph (3) of Section (A), or in accordance with its recommendations made under paragraph (5) of Section (A), constitutes a threat to the maintenance of international peace and security, it shall, in accordance with the purposes and principles of the United Nations, lay down just terms for the settlement of the dispute, and take any measures necessary for carrying out that settlement and for maintaining international peace and security."

25. After paragraph (2) of Section (B), a new paragraph to be inserted, as follows:

"(3) If a situation calling for preventive or enforcement action under paragraph (1) or paragraph (2) above has

arisen out of a matter which by international law is solely within the domestic jurisdiction of the State concerned, the Security Council shall not make any recommendation or decision which would curtail that State's lawful freedom of action, but shall take, in accordance with this Section, whatever preventive or enforcement action is necessary to maintain or restore international peace and security."

26. Paragraph (5) of Section (B), to be amended to read as follows:

"(5) In order that all members of the United Nations may contribute to the maintenance of international peace and security, they undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, facilities and assistance necessary for the purpose of maintaining security. The agreement or agreements shall govern the numbers and types of forces and the nature of the facilities and assistance to be provided. The agreement or agreements shall be negotiated on the initiative of the Security Council, and shall be concluded between the Security Council and members or groups of members. The agreement or agreements shall be negotiated as soon as possible, and shall in each case be subject to ratification by the signatory States in accordance with their constitutional processes."

27. The first sentence of Paragraph (6) of Section (B) to be amended to read as follows:

"(6) In order to enable urgent military measures to be taken by the United Nations, there shall be held immediately available by the members national air force or mixed contingents for combined international enforcement action."

28. At the end of Section (C), a new Section to be added, as follows:

"Section (D): Other Arrangements for Maintaining International Peace and Security.

If the Security Council does not itself take measures, and does not authorise action to be taken under a regional arrangement or agency, for maintaining or restoring international peace, nothing in this Charter shall be deemed to abrogate the right of the parties to any arrangement which is consistent with this Charter to adopt such measures as they deem just and necessary for maintaining or restoring international peace and security in accordance with that arrangement."

COMMISSION IV (Judicial Organisation)

Chapter VII (International Court of Justice)

29. Paragraph 4 to be amended to read as follows:

"(4) All members of the United Nations shall, by virtue of their membership, be parties to the statute of the International Court of Justice, and as between themselves shall recognise as compulsory, without special agreement, the jurisdiction of the Court in the classes of legal disputes specified in the statute, and subject to the terms and conditions therein contained."

30. New paragraphs to be inserted as follows:

"All members of the United Nations undertake to comply with any decision of the Court of International Justice to which they are parties.

"All members of the United Nations undertake not to enter into any agreement inconsistent with this Charter, and agree that the Charter shall have the effect of abrogating any existing or future agreement among themselves which is inconsistent with it."

UNIVERSITY OF
ILLINOIS LIBRARY

The United Nations Conference on International Organization

Doc. 2 (ENGLISH)
G/7 (k) (1)
May 4, 1945

GENERAL

May 3, 1945

DUMBARTON OAKS PROPOSALS CONCERNING THE ESTABLISHMENT OF A GENERAL INTERNATIONAL ORGANIZATION: AMENDMENTS SUBMITTED BY THE BELGIAN DELEGATION

PART I

The Belgian Delegation is pleased to note that several of the observations formulated by the Belgian Government in February 1945 on the subject of the Dumbarton Oaks Proposals agree with amendments already drawn up by some of the United Nations, namely France and the Netherlands. The Delegation believes it superfluous to present, for the time being, the written modifications of detail or form that it would like to see made to these amendments, as well as to various provisions of the Dumbarton Oaks Proposals.

Some of the suggestions contained in the present document are prompted by observations already formulated by the Belgian Delegation. The others are intended to correct omissions or imperfections revealed by a further study of the document.

The Belgian Delegation has not tried to either give a definite form to its proposals, or to settle the exact position that these might occupy in the Charter, if adopted. It appears sufficient at this stage of the proceedings to point out the general scope of the modifications that the Belgian Government hopes to see made in the Dumbarton Oaks Proposals.

PARAGRAPH 1

Pacific Settlement of Disputes

Chapter VIII, Section A, relative to the pacific settlement of disputes, should contain two provisions worded as follows:

a) "The Security Council shall see to it that the engagements undertaken by the States with a view to a pacific settlement of their disputes are respected. In the case of non-observance of these engagements or of omission in the execution of court decisions or awards rendered in accordance with the procedures provided for, the Security Council shall advise as to the measures to be taken to insure their fulfillment."

b) "Any State, party to a dispute brought before the Security Council, shall have the right to ask the Permanent Court of International Justice whether a recommendation or a decision made by the Council or proposed in it infringes on its essential rights. If the Court considers that such rights have been disregarded or are threatened, it is for the Council either to reconsider the question or to refer the dispute to the Assembly for decision."

GROUNDS

Next to political security, comes juridical or legal security. Several Delegations have expressed concern lest influence or political pressure might induce the Security Council to impose on a State modifications of essential rights which are derived, in the case of that State, from the general rules of international law or from treaties.

Moreover, the Dumbarton Oaks Proposals already emphasize the advisability of undertakings by the States relative to the methods of pacific settlement, and the particular competence of the Permanent Court of International Justice for the settlement of juridical differences.

The Belgian Delegation considers it desirable that these obligations be defined with more precision by entrusting directly to the Security Council the responsibility of insuring the observation of engagements entered into with respect to this and with the enforcement of any awards or decisions which may be rendered.

It also believes it important to give States whose differences are submitted to the Security Council the possibility of allowing the Court to express its opinion on the existence of any essential rights they may consider to be threatened or disregarded by the discussions or decisions of the Security Council. If the Court should consider that such rights have in fact been threatened or disregarded, it would be the duty of the Council either to

reconsider the question and maintain or modify its conclusions, or to refer the matter to the Assembly.

PARAGRAPH 2

Relations with Third-Party States

The last paragraph of Chapter II of the Dumbarton Oaks Proposals should read as follows:

"Whereas their association represents the authorized expression of the international legal community, the Member States express the intention, in their relations with third-party States, of basing their action on the principles defined above and on any other rules the general application of which is recognized by the International Organization. Conversely, the Organization will see to it that third-party States act in conformity with the aforesaid principles and rules so far as is necessary for the maintenance of international peace and security."

GROUNDS

The Dumbarton Oaks Proposals affirm the right of the Organization to impose on third-party States, so far as is necessary for the maintenance of peace, respect for those principles enumerated in Chapter II and more especially the obligation in certain cases to renounce the continuation of neutrality.

The Belgian Delegation is in favor of this proposal, but believes it advisable, in order to forestall criticism, to point out its moral and legal basis, and to give it a less unilateral bearing.

The Charter now being drawn up is not a special covenant but a general one which will, some day, we hope, be universal. In any case, as soon as it comes into operation, it will stand out as the will of most of the civilized States--some, indeed, will call it the collective conscience of humanity.

It is therefore perfectly legitimate that the States which adhere to it should free themselves with regard to a few other States from rules which the latter might seek to impose upon them by virtue of a traditional international law which is held to be unalterable. But it is fitting that in so far as these other States are bound by the

principles enumerated in the Charter, they should likewise be allowed to benefit by their application.

It will be noted that the proposed draft of the Belgian Delegation not only refers to principles, but also to other rules which might be laid down by the Organization and which it might consider generally applicable. This remark refers to another amendment of the Delegation, to paragraph 4, discussed further on.

PARAGRAPH 3

Members (Suspension and/or Expulsion)

Any mention of the expulsion of members in Chapter V of the Proposals should be deleted and limited to the suspension of their rights.

GROUNDS

The Dumbarton Oaks Proposals introduce a happy improvement to the Covenant by conceding to the Assembly the power to suspend upon unanimous recommendation of the Security Council, the rights and privileges of membership of any member against whom the Council would be led to take preventive or enforcement measures. (Chapter V, B-3)

Concurrently with this disposition, it provides for the power of expelling from the Organization any member who "persistently violates the principles contained in the Charter".

The Belgian Delegation considers this last clause both useless and injurious. It is useless because suspension in itself is sufficient to eliminate any right of representation from the State under sanction. It is harmful because it creates a great cleavage, not between the Organization and a government but between the Organization and a State, and it creates a future obstacle to the universality of the Organization that will be difficult to surmount.

One will notice, moreover, the illogicalness of a system which, after withdrawing the legitimate right of the adherent States to withdraw from the Organization, in order to confirm its permanent character as an institution, would give a chance to the dissident State to effect such a rupture in an indirect manner by provoking its expulsion.

PARAGRAPH 4

Powers of the General Assembly

Chapter V on the General Assembly should contain the following provisions:

a) "The General Assembly has sovereign competence to interpret the provisions of the Charter.

b) "The General Assembly may submit general conventions for the consideration of States which form part of the United Nations Organization and, should occasion arise, for the consideration of other States, with a view to securing their approval in accordance with the appropriate constitutional procedure.

c) "If the General Assembly is of the opinion that the obligations involved in any draft general convention are mere corollaries of principles it already recognizes as compulsory, or that the general observance of these obligations is necessary for the maintenance of international peace and security, it may decide that the convention in question will come into force for all States Members of the Organization and, should occasion arise, for third-party States, as soon as it has been ratified under the conditions contemplated for the coming into force of amendments to the Charter."

GROUNDS

In principle, the Dumbarton Oaks Proposals only give the Assembly a mere power of recommendation.

The Belgian Delegation is of the opinion that this does not correspond to practical requirements, and proposes that the Assembly should be granted certain further powers of decision, it being understood that whenever questions of substance are being dealt with the decision shall call for a two-thirds majority of the members present and voting, as provided in the paragraph dealing with the vote.

A) The experience gained at Geneva shows first of all the necessity of not allowing an isolated State to impose its interpretation of the Covenant by opposing the adoption of a decision sanctioning a different interpretation, whatever may be the majority.

B) Furthermore, the League of Nations Assembly, when the draft of a general convention was placed before it, frequently decided to submit this draft for immediate ratification or adherence by the States, perhaps after having itself revised the text. It is difficult to see why the General Assembly of the Organization should not have the same rights, or should limit itself to recommending that a separate International Conference be convened. The proposed amendment would give two-thirds of the Members power to decide on the conclusion of a convention submitted for ratification.

C) Lastly, the Belgian proposal, which is based on the provision already written into the draft regarding amendment procedure, suggests that these methods of adoption should be extended to regulations which, while their general application would seem eminently desirable, are too lengthy to be incorporated in the Charter.

In order to realize the discretion with which this option we propose inserting in the Charter would be used, should occasion arise, we need only recall the provisions of Chapter XI of the Dumbarton Oaks Proposals, which stipulate that amendments, before coming into force, must be ratified by all States occupying a permanent seat on the Security Council, as well as by a majority of the other Members. Moreover, the Assembly must not be placed in the paradoxical and distressing position of being validly able to insert new principles into the Charter, determining the duties of States--as regards control of the traffic in arms, for instance--and making them compulsory for all Members as soon as these principles have been voted for by two-thirds of the Members and ratified by the permanent Members of the Security Council as well as by a majority of other Members, while, on the other hand, detailed conventions applying the same principles would be binding upon all Members of the Organization only after unanimous ratification.

PARAGRAPH 5

It is proposed to complete Chapter VIII, Section C, paragraph 2, as follows:

> "Dissentient votes of permanent Members of the Council which are not parties to such arrangements or agencies will not impair the validity of a decision of the Council in this respect."

GROUNDS

According to Chapter VIII, Section C, paragraph 2, of the Dumbarton Oaks Proposals, "no enforcement action should be taken under regional arrangements or by regional agencies without the authorization of the Security Council".

Yet according to Chapter VI, Section C, paragraph 3, the Council's decisions are made by a majority which must include the votes of the permanent members.

So far as the authorization in question is concerned, it would seem that to insist on an affirmative vote by the permanent members is justifiable only in relation to members which are parties to the regional arrangements or agencies in question.

May 4, 1945

PART II

TECHNICAL AMENDMENTS

1. The Belgian Delegation endorses the proposals of the French and Dutch Delegations to include in the Charter of the Organization a text on the registration of treaties.

Nevertheless, the Belgian Delegation sees no reason why the scope of this text should be limited, as suggested in the French memorandum, to international treaties or engagements "of a political nature". The latter are admittedly of considerable importance for the development of international relations, but the same can often be said nowadays of other treaties or engagements, such as economic and trade agreements.

The Belgian Delegation therefore recommends adhering in this respect to the general formula adopted in Article 18 of the Covenant of the League of Nations, without making any changes therein.

2. The Belgian Delegation is of the opinion that the Charter on which the United Nations Organization is to be based should be completely protected from the risk of its application being threatened by the existence of previous or subsequent international agreements incompatible with its terms.

A similar provision already existed in Article 20 of the Covenant of the League of Nations.

The Delegation proposes to retain its essential points.

Furthermore, the Delegation requests that the Charter should likewise be protected against unilateral measures taken by States, either in the form of laws (in the widest sense of the term) or of internal judicial decisions.

This principle was not written into the Covenant of the League of Nations, but it is incorporated in practical international law.

In the light of experience, the Belgian Delegation believes that the time has come to reaffirm its existence.

The Belgian Delegation therefore suggests that the following text be introduced among the final provisions of the Charter:

> "1) The Members of the Organization recognize that the present Charter abrogates all international agreements incompatible with its terms, and pledge themselves not to contract similar engagements in the future.
>
> "2) No State can evade the authority of international law or the obligations of the present Charter by invoking the provisions of its internal law."

3. The recognition of the international status of the United Nations Organization should likewise, according to the Belgian Delegation, form the subject of a special text.

In former times, it was disputed that the League of Nations was a party under international law. This gave rise to difficulties of a practical nature, which chiefly affected the administrative life of the League. Later on, the main tendency of doctrine and jurisprudence was to acknowledge that it was such.

The Belgian Delegation believes this development should now be sanctioned, and that any possibility of controversy should be ruled out.

The Belgian Delegation recommends the adoption of the following text:

> "The Parties to the present Charter recognize that the Organization they are setting up possesses international status, together with the rights this involves."

It goes without saying that the benefits of this provision will extend, should occasion arise, to any institutions attached in any capacity to the United Nations Organization.

4. The Belgian Delegation considers that facilities and immunities should be granted to the United Nations Organization and any institutions attached thereto, as well as to Representatives of Members in the exercise of their duties, and to officials properly so called.

This provision seems vital for the good working of the Organization.

Its general principles would be determined by the Charter in the following terms:

"1) To enable the Organization to fulfill the tasks entrusted to it, its members undertake to accord it facilities and immunities on their respective territories.

"2) The premises and records of the Organization are inviolable.

"3) Members undertake to grant the Organization the same facilities for official communications as are extended to other members for their official communications.

"4) The Organization, its assets and property, shall enjoy immunity from local jurisdiction, except in cases where the Organization itself expressly renounces this right, and shall likewise be exempt from all direct taxation. The Organization shall also enjoy exemption from customs duties on articles intended for official use, and on publications issued by the Organization.

"5) Representatives of members of the Organization are entitled, in the exercise of their duties, to the immunities granted to diplomatic officials.

"6) As regards officials of the Organization, the above-mentioned immunities shall at all times apply to the Secretary General and to officials holding appointments which the Organization ranks among its higher posts. Other officials are entitled to immunity from legal proceedings with regard to acts performed in the exercise of their duties, unless this immunity is cancelled by the Secretary General or his authorized representative."

The United Nations Conference on International Organization

Doc. 2 (ENGLISH)
G/14 (r)
May 5, 1945

GENERAL

PROPOSALS OF THE DELEGATION OF THE REPUBLIC OF BOLIVIA FOR THE ORGANIZATION OF A SYSTEM OF PEACE AND SECURITY

1. The Government of the Republic of Bolivia considers that the establishment of a lasting and just peace is founded on three postulates:

a) The guaranty of a system of world security.

b) The organization of a mechanism for international justice.

c) The economic and social well-being of the great masses of the people.

2. The great powers, who have borne the greatest sacrifices in this war and have brought about by their efforts its victorious conclusion, have the greatest responsibility in the maintenance of peace and of the system of world security. The duties of the great powers to remain watchful, added to their ability to take expedient defensive action in cases of threats to the peace, is therefore the principal guaranty of the system of security, especially for those countries which cannot insure this security by means of their own military and economic resources.

In virtue of the foregoing, the existence of a Security Council with permanent seats for the great powers deserves the unreserved support of the Government of Bolivia, particularly insofar as concerns the breadth of powers which will permit them to settle rapidly the disputes which might arise among members of the international community.

3. The system of security, to be effective, requires the cooperation of all the nations participating in the International Organization. The extension of the duties and rights of the International Organization to all sovereign

states, in order to make them universal, would contribute to the efficacy of the system. In virtue of this, the sovereign states which at present are not members of the community of United Nations might be admitted to the Organization by means of a formal agreement which would bind them to the following:

a) Submission to the principles, purposes, and duties of the Organization.

b) Repudiation of the use of force as an instrument of international policy.

c) Compliance with the specific conditions determined by the Organization for their admission.

4. World security is founded on the principle that a mere attempt at aggression is a policy contrary to good understanding, good neighborliness, and the purposes of lasting peace. This principle can be put into practice only if all nations, great and small, admit that an act of violence on their part should be immediately countered by collective measures.

To achieve this end, there must exist, in the Charter of the Organization, a double and reciprocal guaranty among its members: the first, concerning the territorial inviolability of the states, the legal validity of acquisitions of territory which may originate in acts of force or other means of compulsion not being recognized; and the second, concerning respect for the political independence of the states and the right which they possess to develop freely in their internal life, without the intervention of any other state.

As soon as the attitude of one state toward the guaranties expressed above affects the peaceful existence of another, displaying symptoms which foreshadow an act of aggression, the machinery of collective action should immediately be put into motion.

5. The efficacy of the security machinery is directly related to the need of designating the aggression as such and defining what is meant by "aggressor state", a point which should be considered in the Charter of the General Organization. A previous definition of typically aggressive acts is absolutely essential in order that states composing the international community may recognize what they should avoid in their international conduct so as not to give occasion for collective sanctions.

It is a foregone conclusion, in this connection, that an act of armed invasion typifies aggression by form, and should dictate the adoption of immediate sanctions without the need of previous consultation.

The definition of an aggressor is characterized by the commission of any one of the following acts:

a) Invasion, by armed force, of a foreign territory.

b) Declaration of war.

c) An attack by land, sea, or air forces.

d) Aid lent to armed bands for the purposes of invasion

e) The intervention of a state in the internal or external policy of another.

f) Refusal to submit the cause of belligerence to the procedures of peaceful solution.

g) Refusal to comply with a decision pronounced by a court of international justice.

6. The extension of the powers of the Security Council to all controversies that might arise between member states of the Organization and between the latter and nonmember states eliminates paragraph 7 of Section A of Chapter VIII of the Dumbarton Oaks Proposals which, by distinguishing matters that according to international law fall solely within the jurisdiction of a state, limits the effectiveness of the system of general security. In the opinion of the Government of Bolivia, no conflict should be excluded from the cognizance of the principal organs listed in the Dumbarton Oaks Proposals if it cannot be settled by agreement of the parties involved.

From this point of view, all disputes of a political nature between two or more states should be referred to the Security Council for settlement by means of the procedures of investigation and conciliation as far as possible, and all litigation of a juridical nature should be submitted to the International Court of Justice.

7. Concerning military measures, the Military Staff Committee contemplated in paragraph 9 of Section B of Chapter VIII should be composed of the Chiefs of Staff of

all the United Nations, or their representatives, by means of the creation of regional military organizations dependent on the Military Staff Committee in matters of advice and policy.

8. The purposes of the general International Organization should assure the rule of justice and law in international relations. Unless states submit completely to juridical norms, international justice cannot be attained; without an international justice duly organised and efficiently administered, lasting peace cannot be assured in the world.

9. For the application of justice among nations, the constitutional Charter of the Organization should specify clearly the means of eliminating evidently unjust situations which may exist or might arise in spite of the noble purposes which inspired the action of the United Nations in the present war.

10. The maintenance of a peaceful good-neighborliness among states depends on the adoption of regular procedures for the adoption or adjustment of international agreements on the enforcement of which a better order in the community of nations depends.

When international agreements create unjust situations, or maintain a state of affairs which is onerous to one of the parties, and when its prolonged existence can endanger harmony among the members of the community of nations, it should be deemed necessary to eliminate such situations.

Such coordinated planning is not inconsistent with respect for and faithful fulfilment of international treaties, which is the norm of juridical tradition and has deserved, does deserve, and will deserve at all times the fullest support of the Republic of Bolivia in its international conduct.

The lasting nature of international instruments regulating the harmonious life of states, however, is not consistent with the development of new circumstances and new conditions which may differ fundamentally from those which gave rise to the agreements. Hence they should continually be perfected in the light of the evolution of conditions created by the dynamics of history.

These readjustments are necessary to strengthen the spirit of cooperation among countries.

Any international treaty which implicitly carries the clause "rebus sic stantibus" can be revised by agreement of the parties; and only when such an agreement is impossible and there exists a grave threat to international peace and harmony, should the mode of revision be decided by the International Court in all that concerns juridical questions, and by the Security Council in cases of a political nature which are not susceptible to settlement of a judicial nature.

The Security Council should then be able to propose the application of procedures of investigation and conciliation for a satisfactory readjustment.

11. The International Court of Justice provided for in Chapter VII of the Dumbarton Oaks Proposals should be organized on the basic principles of the Statute of the Permanent Court of The Hague, with modifications necessary for the due effectiveness of its judicial action. This Court should have universal jurisdiction and competence in all disputes of a juridical nature which may arise in the life of international relations.

Decisions pronounced by the said Court should be of a binding nature for the parties, none of them being able to refuse compliance under penalty of being designated an aggressor state.

Besides its judicial functions, the Court should also have those of advising on legal matters both the International Organization and its member states.

12. The Government of Bolivia considers that the maintenance of permanent peace and the development of international good-neighborliness depend on insuring positive conditions of well-being for the great masses of the peoples represented in the future Organization, by means of the raising of the standard of living in the less favored nations, the protection of the international rights of man, the perfecting of social security, the provision of material opportunities for work, and the solution of problems of health, population, and others of the same nature.

PROPOSALS CONCERNING THE DUMBARTON OAKS PROPOSAL

In view of the preceding considerations, the Bolivian Delegation has the honor to submit for consideration to the United Nations Conference on Internatiinal Organization, the following proposed additions and amendments to the Dumbarton Oaks Proposals:

Chapter I. Purposes

1. To maintain international peace and security, under the rule of justice; and to that end to take effective collective measures for the prevention and removal of threats to the peace, as well as to suppress all threats or acts of aggression and to bring about by peaceful means the settlement of international situations and disputes.

2. To develop friendly relations among nations and to take appropriate measures to strengthen universal peace, in conformity with the provisions stated in the preceding paragaaph.

Chapter II. Principles

1. The Organization is based on the principles of the sovereign equality of all states which pursue peace and justice in relations between member states.

3. All members of the Organization shall be bound to settle their disputes by peaceful means in such a manner that international peace, security, and justice are not endangered.

4. All members of the Organization shall refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the Organization. All threats or acts of violence committed by any state to the detriment of any other state shall be considered as acts of aggression committed against all the other members of the Organization.

5. All members of the Organization shall guarantee to each other that the inviolability of their territories shall be respected, and shall not grant any legal recognition to territorial acquisitions which may have been

obtained through the use of force or of other means of coercion. They shall likewise offer to each other the same guarantees concerning respect for their political independence and the right for each to develop freely without the intervention of other states in its internal or external affairs.

6. All members of the Organization agree that any threat or act of violence committed by one state to the detriment of another, in defiance of the above-mentioned guaranties, will suffice to qualify that state as an aggressor and for the immediate adoption of the collective security measures contemplated for the maintenance of international peace and harmony.

Chapter III. Membership

1. Membership of the Organization should be open to all sovereign states. States which are not at the moment members of the Organization shall be able to enter it by means of a formal undertaking to respect the principles, purposes, and duties contained in the Charter, to repudiate the use of force as an instrument of national policy and to comply with the special conditions set by the Organization for their admission.

Chapter V. The General Assembly

Section B. 1. The General Assembly should have the right to consider the general principles of cooperation in the maintenance of international peace, security, and justice . . .

Chapter VII. An International Court of Justice

3. The Statute of the International Court of Justice shall be based on the existing Statute of the Permanent Court of International Justice, which is appended as an annex to this Covenant, with the amendments which may be made to them. The decisions of this Court shall be of a binding and final nature in all disputes of a juridical nature which it may not have been possible to solve by other peaceful means. All states which refuse to comply with these decisions shall be declared aggressor states.

Chapter VIII. Arrangements for the Maintenance of International Peace and Security Including Prevention and Suppression of Aggression

Section A. 1. The Security Council should be empowered to investigate any dispute or situation which may lead to international friction or give rise to a dispute, and to propose the means which it considers necessary and to determine the measures which will be chosen in order to prevent the continued existence of the dispute or situation from endangering international peace, security, and justice.

2. The Security Council shall recommend the revision of all international treaties or agreements whose continued existence would endanger a good understanding between states or would destroy international harmony. Where the agreement of the parties concerned cannot be obtained, the Security Council shall decide on the expediency of the said revision and shall promote the use of the peaceful means provided for in paragraph 3.

2. Any state, whether member of the Organization or not, may bring any such dispute, situation, or agreement of the sort indicated in the preceding paragraphs to the attention of the General Assembly or of the Security Council.

3. The parties to any dispute the continuance of which is likely to endanger the maintenance of international peace, security, and justice should obligate themselves, first of all, to seek a solution by direct negotiation, investigation, and conciliation, in matters of a political nature, or by judicial settlement in disputes of a juridical nature, or by other peaceful means of their own choice.

7. Paragraph 7 of Section A of Chapter VIII of the Dumbarton Oaks Proposals should be suppressed.

Section B. 2. In general the Security Council should determine the existence of any threat to the peace, breach of the peace, or act of aggression and should make recommendations or decide on the measures to be taken to maintain or restore peace and security. If the nature of the acts investigated entails designating a state as an aggressor as indicated in the following paragraph, these measures should be applied immediately by collective action.

3. A state shall be designated an aggressor if it has committed any of the following acts to the detriment of another state.

a) Invasion of another state's territory by armed forces.

b) Declaration of war.

c) Attack by land, sea, or air forces, with or without declaration of war, on another state's territory, shipping, or aircraft.

d) Support given to armed bands for the purpose of invasion.

e) Intervention in another state's internal or foreign affairs.

f) Refusal to submit the matter which has caused a dispute to the peaceful means provided for its settlement.

g) Refusal to comply with a judicial decision lawfully pronounced by an International Court.

9. The Committee should be composed of the Chiefs of Staff of the permanent members of the Security Council or their representatives, but this should not be construed as excluding the possibility of its being expanded to include the Chiefs of Staff, or their representatives, of all members of the Organization, by the creation of subsidiary military organs in the geographical areas of their respective nationalities, to act in an advisory capacity.

Section C. 1. Nothing in the Charter of the Organization should preclude the existence of regional systems, arrangements, or agencies which might co-operate in dealing with such matters relating to the maintenance of international peace, security, and justice, provided that the activities of such regional systems, arrangements, or agencies are consistent with the purposes and principles of the Organization. The Security Council should encourage settlement of local disputes through such regional systems, arrangements or agencies, and should not overlook the adoption of such means as it may consider appropriate for the maintenance of world peace or the suppression of an act of aggression.

2. The Security Council should, where appropriate, utilize the co-operation of such regional systems, arrangements, or agencies, for enforcement action under its authority. In no case should such regional systems, arrangements, or agencies be able to adopt measures of sanction, whether economic or military, without the expressed authority of the Security Council.

Chapter IX. Social and Economic Problems

Section B. The Economic and Social Council should consist of representatives of eighteen members of the Organization. The states which should be represented for this purpose should be elected by the General Assembly for terms of three years. Each state should have one representative, who should have one vote. Decisions of the Economic and Social Council should be taken by simple majority vote of those present and voting. A procedure should be established to give adequate representation in the Economic and Social Council to the organized labor of the world.

Section C.

b. to make recommendations, on its own initiative, with respect to international economic and social matters, preferably relative to insuring the well-being of the populations of the member states of the Organization and the solution of humanitarian problems of an international nature.

c. to achieve concerted action destined to promote the economic development, the industrialization, and the raising of the standard of living of the less favored nations as well as the protection of the international rights of man, the perfecting of social security and the provision of the material opportunities for work, the solution of problems of health and population and others of a similar nature.

The United Nations Conference
on International Organization

Doc. 2 (Engl
G/7(e)
May 2, 1945

GENERAL

BRAZILIAN COMMENT ON DUMBARTON OAKS PROPOSALS
MEMORANDUM OF BRAZILIAN ACTING MINISTER FOR FOREIGN AFFAIRS TO AMERICAN CHARGE d'AFFAIRES, NOVEMBER 4, 1944

The Acting Minister for Foreign Affairs has duly received the memorandum which the Chargé d'Affaires ad interim, pursuant to instructions of his Government, submitted, under date of October 9th, for his consideration, containing the "proposals for the establishment of a general international organization", in the original English text, accompanied by an official Portuguese translation. In this memorandum the Chargé d'Affaires of the United States of America communicated to the Acting Foreign Minister, the desire of his Government to consider any suggestions of the Brazilian Government with regard to the proposals referred to before the meeting of the international conference which will discuss them.

2. The Acting Minister of Foreign Affairs thanks the Chargé d'Affaires of the United States of America for submitting that important document, as well as for the desires expressed by his Government to consider the Brazilian observations on the text, and sets forth herewith the opinions of the Brazilian Government in this regard.

3. The Brazilian Government, convinced of the compelling and urgent need for establishing a new international organization capable of effectively maintaining the peace and security of the world, and taking into consideration the serious difficulties to be overcome in such a complex undertaking, considers as satisfactory, under the present difficult circumstances, the project submitted to its consideration. It would be glad, however, if there were expressly set forth, in accordance with the high motives which inspires it, the possibility of perfecting the pact to be drawn up between the nations, so that all the members of the international organization taking part may come to have, in the near future, a greater participation in its decisions.

4. It considers it essential that there be included among the principles of the organization to be set up the respect and maintenance, by all the members, against any external aggression and the territorial integrity and political independence of each one of them.

5. It seems desirable that the pact to be drawn up should make mention that when a controversy, under 4, 5 and 6 of Section A, Chapter VIII of the project, does not reach a solution by agreement between the parties, the Security Council should submit the question to the International Court of Justice, or to a Court of Arbitration to be organized in accordance with the methods foreseen in the Geneva Protocol of October 2, 1924, depending upon whether or not it deals with a conflict of a juridical nature, excepting, however, the questions dealt with in paragraph 7--questions which international law leaves to the exclusive competence of each state. It seems to it that the action of the Security Council should only make itself felt, in these cases, for that purpose, and to maintain and restore peace, or to assure the fulfillment of a judgment.

6. It is believed to be indispensable that decision should not be left to the interested party, during the course of a controversy in which peace is endangered, as to whether it should be included among those questions which international law leaves to the exclusive competence of the interested state (Paragraph 7, Section A, Chapter VIII), it being deemed advisable that, in each case, the classification of these questions be referred to the International Court of Justice at the request of one of the parties or of the Security Council. It is understood that, if the decision of the Court is affirmative, the Security Council should take measures, if necessary, to prevent any disturbance of peace and international security, and that, if the Court should decide that the controversy is not of such a character, the Council should submit it to the processes prescribed in the pact to be drawn up, for the pacific solution of international conflicts.

7. It considers that a State convoked as a member ad hoc of the Security Council, Paragraphs 4 and 5, Section D, Chapter VI of the project, since it is involved in or party to a controversy submitted to that body, should have a voting status equal to that of titular members, it being believed that the latter, under such conditions, should not have the right to vote.

8. It understands that the Security Council, the organization which is provided for in Section A of Chapter VI of the project, should consider the currents of opinion and interests of all the civilized world in order to provide rapid and comprehensive performance of its weighty duties, outstanding among which is primary responsibility for the maintenance of peace and international security, by delegation, according to the project (Section B, paragraph 1, Chapter VI) of all the members of the organization, in whose name it acts. It would seem, thus, that this body, with a view to the speed and efficaciousness of action required of it (Section B, paragraph 1) cannot do without the constant cooperation of South America, to which the granting of a permanent place in its midst is considered essential.

9. It is of the opinion that the questions of exclusively regional groups referred to in paragraphs 1, 2 and 3, section C, Chapter VIII of the project, should be resolved by them, the intervention of the Security Council in the solution of these questions only being justified when they endanger the peace of more than one regional group.

10. It suggests that in the editing of paragraph 4, Chapter II, it be made very clear that all members of the organization will abstain, in their international relations, from resorting to threats or to force, except in accordance with the methods and decisions of the organization.

11. It deems advisable that the reports of the Security Council submitted to Assembly, pursuant to Paragraph 8, Section B, Chapter V of the project, should be not only studied there but also placed under discussion.

12. It also seems equally desirable that the principle of publicity for treaties be set forth in the pact to be drawn up.

13. It also believes desirable that the Assembly of the Organization have as permanent headquarters, the same as those of the Security Council and the Secretariat, with the right to meet in another place if so decided.

14. It is believed useful that the organization adopt English and French as its official languages.

15. The Brazilian Government will give its opinion in due course on the remaining questions relative to the international organization, not taken up in the present memorandum, and which are not included in the present project, reserving its definitive views on such an important matter until it has for consideration the complete plan of the organization for peace and international security.

Rio de Janeiro, November 4, 1944.

BRAZILIAN COMMENT ON DUMBARTON OAKS PROPOSALS SUBMITTED TO INTER-AMERICAN CONFERENCE ON PROBLEMS OF WAR AND PEACE

The Delegation of Brazil desires to emphasize, first of all, that from its point of view, the Dumbarton Oaks Proposals represent a great step forward with respect to the future organization of peace and they demonstrate the careful attention that has been given to the necessity of facilitating and consolidating future international relations. But the Delegations consider, furthermore, that in various points the Proposals are open to improvements which would tend to make them more effective.

Notwithstanding, the Delegation, taking a realistic attitude, recognizes that some of the main defects, which appear generally in the system formulated at Dumbarton Oaks, cannot be altered at the San Francisco Conference. Such defects will disappear only as time passes.

In any event, desiring to contribute in some measure to the improvement of those Proposals, of so great importance to the world, the Delegation of Brazil, without attempting in any way to replace them, indicates here some suggestions, some ideas, that might be used to advantage.

These ideas include not only those which the Brazilian Government brought directly to the attention of the Government of the United States, in reply to a communication of October, 1944, but also others which are now considered opportune.

CHAPTER II

In Chapter II of the draft, with reference to Principles, it appears that there could be included not only the principle of non-intervention, which has already been extensively recognized among the American nations (Conventions of Montevideo on the Rights and Duties of States; Protocol of Buenos Aires relative to non-intervention; Declaration of Lima, 1938) and even in a certain manner accepted by the Assembly of the League of Nations (Resolution adopted by October 10, 1936) and also the principle of scrupulous respect for treaties, which constitutes one of the bases of international law.

Therefore, the Delegation of Brazil suggests that paragraph 2 of Chapter II be worded as follows:

> "2. All members of the Organization pledge themselves to respect and scrupulously to comply with agreements and treaties to which they may be contracting parties, including obligations assumed in conformity with the present Charter."

And that paragraph 4 of the same chapter be worded thus:

> "4. All members of the Organization shall refrain in their international relations from any intervention in the foreign or domestic affairs of any other member of the Organization, and from resorting to threats or use of force, if they are not in accord with the methods and decisions of the Organization. In the prohibition against intervention there shall be understood to be included any interference that threatens the national security of another member of the Organization, directly or indirectly threatens its territorial integrity, or involves the exercise of any excessively foreign influence on its destinies."

In view of what is said below, the Delegation of Brazil proposes likewise the elimination of the last paragraph of Chapter II.

CHAPTER III

The Delegation of Brazil considers that it would be desirable to adopt the principle of universality in the new international organization. This should fully represent the community of States in such manner that no State which enjoys its own independent life could either be excluded or exclude itself from that community.

As within the internal order every individual is subordinate to the jurisdiction of some State, so also within the external order every State should be included in the International Organization.

Therefore the Delegation of Brazil suggests that Chapter III of the Proposals be replaced by the following:

> "1. The International Organization shall be composed of all sovereign States that now exist or which in the future may exist under their own independent conditions of life.

"2. No State may be expelled from the Organization or voluntarily withdraw from it."

CHAPTER V

The functions and powers of the Assembly of the new Organization will be somewhat less than those of the Security Council, in accordance with the Dumbarton Oaks Proposals. It therefore might be desirable to strengthen the first of these two bodies, in which all Members of the Organization will be represented.

This, however, is one of the points wherein it might be difficult to change what was established at the Dumbarton Oaks Conference.

Therefore, the Delegation of Brazil limits itself to stating that, if the above indicated suggestion is accepted, relative to the universality of the new Organization, there should be eliminated in Section B of this Chapter, paragraph number 2 and the last paragraph of number 3, as well as the reference to expulsion contained in paragraph 2 of Section C, and the Delegation suggests the inclusion of a rule on the question of revision of treaties.

Without doubt this is a question of extreme gravity. Many times a State which is party to an international agreement or treaty considers itself authorized to denounce it unilaterally, alleging that the conditions which determined its formulation have ceased. This pretension is based on the supposition that all treaties are subordinate to a tacit condition of annulment or that they implicity contain a rebus sic stantibus clause.

This doctrine is dangerous, but the absence of the possibility of revision of certain treaties can lead to disastrous, or at least unjust, consequences.

The Covenant of the League of Nations tried to solve the question, but in an inadequate manner. In fact, its Article 19 provided only that from time to time the Assembly might invite the members of the League to proceed to a new examination of the treaties which were found to be inapplicable, and to examine international situations whose continuation might compromise world peace. This stipulation became a dead letter, because the simple invitation of the Assembly, difficult in itself to achieve, had no compulsory force.

The Convention of Habana of 1928 on treaties anticipated the hypothesis of the denunciation of a permanent treaty and provided that if such denunciation did not obtain the assent of one or the other contracting parties, the case would be submitted to arbitral decision.

The Delegation of Brazil considers that an analogous rule should be established for the world plan with recourse not to an arbitral decision but rather to the permanent international court of justice and in accordance with a procedure adapted to the new international organization. It would treat only the so-called *permanent* or *executory* treaties, that is, those whose effects lie in the future, which are precisely those that give rise, at times, to serious difficulties.

The rule that the Delegation of Brazil suggests might figure as the last paragraph of Section B of Chapter V, is more or less as follows:

> "At the request of any contracting party to an executory treaty, who alleges the total or partial caducity of the same, or the injustice of its continuation, the Assembly by a two-thirds majority shall invite one or the other contracting parties to come to agreement with the first for the revision or cancellation of such treaty. If any of the contracting parties are not in agreement with the said revision or cancellation, the other one or more contracting parties shall be authorized to resort to the permanent international court of justice, in order that the latter by judgment may decide if the treaty in question has lost all or part of its compulsory force because of the fact that the conditions determining its execution have changed or that the treaty itself has become unjustly onerous for one or the other of the parties."

CHAPTER VI

The composition of the Security Council is one of the points of the Dumbarton Oaks Proposals that has caused the greatest and the most justified criticism, and with great reason because the functions of such a Council will be those of an all-powerful executive body.

The opinion of Brazil, in agreement with several others, considers that, excepting perhaps during the period of transition between the end of the present war and a future phase of perfect world readjustment to new international conditions, the composition of the Council should respond to more democratic formulas and be truly based on the juridical equality of sovereign States, without losing from sight the fact that, in certain cases or situations, special rights could be conceded to some of the members of the international community.

Aware, however, of the difficulties of the moment, the Delegation does not attempt to suggest anything against the previous rule already established in favor of the permanence of the five great allied powers on the Security Council.

But if efforts are made to maintain the criterion of the permanence of some States on the aforementioned executive body, the Delegation of Brazil believes that it would be just to assign one of the permanent seats to Latin America.

If it is true that this criterion is based on the necessity of extending to the world organization facilities for providing efficient military assistance in the collective effort to preserve world peace and security, it appears that this argument should apply to Latin America, whose military, air, land, and naval bases in the present war and whose contributions on the battlefields have been of such great importance to the success of long-range war operations.

In any case, the Delegation of Brazil does not wish to insist upon this point, to which, at the proper time, its Government called the attention of the Government of the United States of America.

Thus, with regard to the present chapter, the Delegation of Brazil limits itself to: (a) manifesting a desire that in the definitive plan of the world organization, in so far as it relates to voting procedure on the Security Council, the regulation be adopted that the State violating the obligations contained in the basic charter will not have the right to vote, when the matter to which the violation relates is to be resolved; (b) indicating the necessity that the following words be omitted from paragraph 5 of Section D, in the event that the principle of the universality of the new international organization is accepted: "and any State not a member of the Organization"; (c) suggesting an amplification of Section D, which would be called number 6 and would read as follows:

> "6. In cases foreseen in the two preceding paragraphs (numbers 4 and 5), a member of the Organization allowed to participate in the discussion should, in voting matters, have a position equal to that granted to members of the Council."

CHAPTER VII

Following upon suggestions relating to the universality of the system, the Delegation of Brazil points out that, in the event that such a suggestion is accepted, paragraph 5 of this Chapter should be eliminated.

CHAPTER VIII

The Delegation of Brazil believes that, in the cases referred to in Chapter VIII, Section A, paragraph 7, the qualification of questions that, by international law, are of the exclusive competence of a State should be referred to the permanent international court of justice in order to avoid all undue freedom in the matter. The Delegation therefore suggests that to Section A there be added a paragraph 8 as follows:

> "If, in some controversy, one of the litigating States alleges that the controversial question falls solely within its domestic jurisdiction, it shall be the duty of the Permanent International Court of Justice to make a pronouncement on the matter at the request of one of the parties or of the Security Council. If the decision of the Court is in the affirmative, and the parties do not reach an agreement by means of diplomatic negotiation, the litigation shall be submitted to the procedure of conciliation. If this method fails, the case should be decided by arbitration."

As regards Section C of the same Chapter, dealing with regional agreements, the Delegation of Brazil believes that it would be highly advisable to approve the proposal presented on the subject by the Conference and distributed to the Second Committee (Document Number 38, CI-PR-18).

Therefore, a paragraph reading more or less as follows should be inserted into Section C:

> "The solution of questions of exclusive interest to an already organized regional group, as for example the inter-American group, should be left to the methods employed among the components of said group, so that the intervention of the Security Council will be justified only when such questions may endanger the peace of some other group of nations."

CHAPTER XI

The Delegation of Brazil desires that the procedure of amending the Charter of the new organization be less rigid than is established in this Chapter. To require that any amendment already adopted by two-thirds of the Assembly may not enter into force without having been ratified by all the permanent members of the Security Council and by the majority of the other members of the Organization makes any future modification of essential points difficult. The Delegation of Brazil suggests that the entrance into force of any amendment should depend upon ratification by two thirds of the Assembly and two thirds of the Council.

Accordingly, the end of the constitutional article of this Chapter should be written as follows:

> " . . . and ratified in accordance with their respective constitutional processes by two thirds of the countries represented on the Security Council and by two thirds of all the members of the Organization."

The United Nations Conference on International Organization

RESTRICTED
Doc. 2 (ENGLISH)
C/7 (e)(1)
May 3, 1945

GENERAL

AMENDMENTS TO DUMBARTON OAKS PROPOSALS SUBMITTED BY THE BRAZILIAN DELEGATION

No. 1

The Brazilian Delegation submits the following amendment to Chapter I - Purposes - paragraph 1, of the Dumbarton Oaks Proposals (page 1, lines 3 to 4, of Doc. 1 G/1):

> To proscribe war as an instrument of national policy; to maintain international peace and security and to that end to take effective collective measures . . . etc.

No. 2

The Brazilian Delegation submits the following amendment to Chapter I - Purposes - paragraph 2, of the Dumbarton Oaks Proposals (page 1, lines 10 to 12, of Doc. 1 G/1):

> To develop friendly relations among nations; to take other appropriate measures to strengthen universal peace and to define matters which constitute the domain of international law, i.e., those which transcend the domestic competence of the states; within the limits of such definition, to vote the secondary laws or laws pertaining to application.

No. 3

The Brazilian Delegation submits the following amendment to Chapter II - Principles - paragraph 2, of the Dumbarton Oaks Proposals (page 2, lines 7 to 10, of Doc. 1 G/1):

> All members of the Organization undertake, in order to insure to all of them the right and benefits resulting from membership in the Organization, to respect and carry out scrupulously the treaties and agreements to which they are parties and to fulfil the obligations assumed by them in accordance with the Charter.

No. 4

The Brazilian Delegation submits the following amendment to Chapter V - The General Assembly - Section B, paragraph 8, of the Dumbarton Oaks Proposals (page 6, line 3, of Doc. 1 G/1):

> The General Assembly should receive and discuss . . . etc.

GENERAL

Brazil
November 4, 1944

ORIGINAL BRAZILIAN COMMENTS ON DUMBARTON OAKS PROPOSALS

TRANSLATION

The Acting Minister for Foreign Affairs has duly received the memorandum which the Chargé d'Affaires ad interim, pursuant to instructions of his Government, submitted, under date of October 9th, for his consideration, containing the "proposals for the establishment of a general international organization", in the original English text, accompanied by an official Portuguese translation. In this memorandum the Chargé d'Affaires of the United States of America communicated to the Acting Foreign Minister, the desire of his Government to consider any suggestions of the Brazilian Government with regard to the proposals referred to before the meeting of the international conference which will discuss them.

2. The Acting Minister of Foreign Affairs thanks the Chargé d'Affaires of the United States of America for submitting that important document, as well as for the desires expressed by his Government to consider the Brazilian observations on the text, and sets forth herewith the opinions of the Brazilian Government in this regard.

3. The Brazilian Government, convinced of the compelling and urgent need for establishing a new international organization capable of effectively maintaining the peace and security of the world, and taking into consideration the serious difficulties to be overcome in such a complex undertaking, considers as satisfactory, under the present difficult circumstances, the project submitted to its consideration. It would be glad, however, if there were expressly set forth, in accordance with the high motives

which inspires it, the possibility of perfecting the pact to be drawn up between the nations, so that all the members of the international organization taking part, may come to have, in the near future, a greater participation in its decisions.

4. It considers it essential that there be included among the principles of the organization to be set up the respect and maintenance, by all the members, against any external aggression and the territorial integrity and political independence of each one of them.

5. It seems desirable that the pact to be drawn up should make mention that when a controversy, under 4, 5 and 6 of Section A, Chapter VIII of the project, does not reach a solution by agreement between the parties, the Security Council should submit the question to the International Court of Justice, or to a Court of Arbitration to be organized in accordance with the methods foreseen in the Geneva Protocol of October 2, 1924, depending upon whether or not it deals with a conflict of a juridical nature, excepting, however, the questions dealt with in paragraph 7 - questions which international law leaves to the exclusive competence of each state. It seems to it that the action of the Security Council should only make itself felt, in these cases, for that purpose, and to maintain and restore peace, or to assure the fulfillment of a judgment.

6. It is believed to be indispensable that decision should not be left to the interested party, during the course of a controversy in which peace is endangered, as to whether it should be included among those questions which international law leaves to the exclusive competence of the interested state (Paragraph 7, Section A, Chapter VIII), it being deemed advisable that, in each case, the classification of these questions be referred to the International Court of Justice at the request of one of the parties or of the Security Council. It is understood that, if the decision of the Court is affirmative, the Security Council should take measures, if necessary, to prevent any disturbance of peace and international security, and that, if the Court should decide that the controversy is not of such a character, the Council should submit it to the processes prescribed in the pact to be drawn up, for the pacific solution of international conflicts.

7. It considers that a State convoked as a member ad hoc of the Security Council, Paragraphs 4 and 5, Section D, Chapter VI of the project, since it is involved in or party to a controversy submitted to that body, should have a voting status equal to that of titular members, it being believed that the latter, under such conditions, should not have the right to vote.

8. It understands that the Security Council, the organization which is provided for in Section A of Chapter VI of the project, should consider the currents of opinion and interests of all the civilized world in order to provide rapid and comprehensive performance of its weighty duties, outstanding among which is primary responsibility for the maintenance of peace and international security, by delegation, according to the project (Section B, paragraph 1, chapter VI) of all the members of the organization, in whose name it acts. It would seem, thus, that this body, with a view to the speed and efficaciousness of action required of it (Section B, paragraph 1) cannot do without the constant cooperation of South America, to which the granting of a permanent place in its midst is considered essential.

9. It is of the opinion that the questions of exclusively regional groups referred to in paragraphs 1, 2 and 3, section C, Chapter VIII of the project, should be resolved by them, the intervention of the Security Council in the solution of these questions only being justified when they endanger the peace of more than one regional group.

10. It suggests that in the editing of paragraph 4, Chapter II, it be made very clear that all members of the organization will abstain, in their international relations, from resorting to threats or to force, except in accordance with the methods and decisions of the organization.

11. It deems advisable that the reports of the Security Council submitted to Assembly, pursuant to Paragraph 8, Section B, chapter V of the project, should be not only studied there but also placed under discussion.

12. It also seems equally desirable that the principle of publicity for treaties be set forth in the pact to be drawn up.

13. It also believes desirable that the Assembly of the Organization have as permanent headquarters, the same as those of the Security Council and the Secretariat, with the right to meet in another place if so decided.

14. It is believed useful that the organization adopt English and French as its official languages.

15. The Brazilian Government will give its opinion in due course on the remaining questions relative to the international organization, not taken up in the present memorandum, and which are not included in the present project, reserving its definitive views on such an important matter until it has for consideration the complete plan of the organization for peace and international security.

Rio de Janeiro, November 4, 1944

The United Nations Conference on International Organization

Doc. 2 (ENGLISH)
G/7 (c)(3)
May 6, 1945

GENERAL

AMENDMENTS OF THE BRAZILIAN DELEGATION TO THE DUMBARTON OAKS PROPOSALS

No. 5

The Brazilian Delegation submits the following amendment to Chapter IX, Arrangements for International Economic and Social Cooperation, Section A, Purposes and Relationships, paragraph 1, of the Dumbarton Oaks Proposals (page 18, line 14, of Doc. 1, G/1):

> economic, social, health and other humanitarian problems.... etc.

No. 6

The Brazilian Delegation submits the following amendment to Chapter IX, Arrangements for International Economic and Social Cooperation, Section D, Organization and Procedure, paragraph 1, of the Dumbarton Oaks Proposals (page 20, line 16, of Doc. 1, G/1):

> a social commission, a health commission and such other commissions.... etc.

No. 7

The Brazilian Delegation submits the following amendment to the Dumbarton Oaks Proposals:

Substitution of Chapter XI (page 21, line 23, and page 22, lines 1 to 6, of Doc. 1, G/1) by the following:

Chapter XI Revision of the Charter

The General Assembly shall meet every five years, as counting from the date of the first formal meeting of the Organization, either prior to or simultaneously with the annual session, with the object of revising the Charter, decisions that may be taken in such extraordinary sessions being by a majority of two thirds of the votes..

JUSTIFICATION

The procedure for amendment of the Charter provided for under Chapter XI of the Dumbarton Oaks Proposals renders it almost impossible to carry through an amendment since ratification by the five members having permanent seats on the Security Council and by the majority of the other members of the Organization is required, besides a majority of two thirds of the votes of the General Assembly. The periodic revision would not necessarily imply in modifications of the Charter at each five-year period and would relieve four out of five annual assemblies of the agitation attendant upon the presentation of amendments. Furthermore, the adoption of such revision would allay the discontent existing among the various delegations which consider the powers delegated to the permanent members of the Security Council as being excessive.

The United Nations Conference on International Organization

Doc. 2 (ENGLISH)
G/7 (e)(4)
May 6, 1945

GENERAL

No. 8

The Brazilian Delegation submits the following addition to Chapter XII, Transitional Arrangements, of the Dumbarton Oaks Proposals:

> Each government member of the Organization be entitled to designate a representative to form an interim commission to study and to make recommendation regarding the establishment of an International Health Organization.
>
> The interim commission shall be installed in a city to be designated by the Presidents of the Conference not later than two months after such designation.
>
> The interim commission in preparing the plan for the permanent health organization shall give full consideration to the relation of the permanent organization and to methods of associating it with other institutions, national as well as international, which already exist or which may hereafter be established in the field of health.
>
> The interim commission shall report as soon as possible the results of its studies to the General Assembly through the Economic and Social Council.

No. 9

The Brazilian Delegation submits the following amendment to the Dumbarton Oaks Proposals:

> Inclusion under Chapter II, Principles, at any appropriate point, of the following paragraph:
>
> All members of the Organization shall endeavour to practise the policy of the Good Neighbour.

JUSTIFICATION

This simple, sane and profoundly moral doctrine should lead to the elimination of violence and war as instruments of international policy. The lessons of the present conflict are the most fitting illustration of its significance.

The adoption of this principle by the Conference would be a worthy tribute to the memory of the great internationalist who propounded it.

No. 14

The Brazilian Delegation submits the following amendment to the Dumbarton Oaks Proposals:

> Modify the title of Chapter IX to Arrangements for International Economic, Social, and Cultural Cooperation, and add the following paragraph to the end of said chapter:
>
> With a view to preserving, increasing, and disseminating the common cultural heritage of mankind, the Organization should promote the development of science and of art, the spread of knowledge and the use of the powerful methods of communication now available for education towards a more peaceful and happier way of life. Responsibility for the discharge of these functions should be vested in the General Assembly and under the authority of the General Assembly in a Council of Cultural Relations. This Council should be organised on the same general lines provided for the Economic and Social Council.

JUSTIFICATION

Culture should not be a privilege but the common heritage of all. The misuse of the instruments provided by science is a source of danger and of unrest. The perversion of youth in the aggressor countries provides a startling example of the need for education in peaceful ways of living. The cultural institutions of countries devastated by war must be rebuilt and restored.

No. 15

The Brazilian Delegation submits the following amendment to Chapter II, Principles, paragraph 4, of the Dumbarton Oaks Proposals (page 2, lines 15 to 16, of Doc. 1 G/1):

> . . . from the threat or use of force and from the threat or use of economic measures in any manner inconsistent . . . etc.

No. 16

The Brazilian Delegation submits the following amendment to Chapter IX, Arrangements for International Economic and Social Cooperation, Section A, Purpose and Relationship, paragraph 2, of the Dumbarton Oaks Proposals (page 19, line 3, of Doc. 1 G/1):

> . . . to approval by the General Assembly. On all questions of an economic, social, or humanitarian nature for which such aforementioned specialized economic, social, and other organizations are responsible, the Organization shall take cognizance through the intermediary of and after consideration by the Economic and Social Council.

AMENDMENTS TO THE DUMBARTON OAKS PROPOSALS SUBMITTED JOINTLY BY THE DELEGATIONS OF BRAZIL, THE DOMINICAN REPUBLIC, AND MEXICO ARE CONTAINED IN A SEPARATE DOCUMENT AT THE END OF THIS VOLUME.

The United Nations Conference
on International Organization

Doc. 2 (ENGLISH)
G/14 (t)
May 6, 1945

GENERAL

AMENDMENTS TO DUMBARTON OAKS PROPOSALS SUGGESTED BY THE CANADIAN DELEGATION

Introductory Note

In putting forward the amendments which follow, the Canadian Delegation has taken account of the amendments proposed by a number of other delegations. It has not included in its own suggestions several amendments already proposed which it expects to support.

Composition of the Security Council

(Chapter VI Section A)

1. In the second sentence of Chapter VI A delete the words "in due course" before "France".

2. Substitute for the third sentence of Chapter VI A the following:

   "The General Assembly shall elect six states to fill the non-permanent seats. The General Assembly shall adopt rules governing the choice of the non-permanent members, in order to ensure that due weight be given to the contribution of members to the maintenance of international peace and security and the performance of their obligations to The United Nations."

Voting in the Security Council*

(Chapter VI, Section C)

The first three lines of paragraph 3 to be amended to read as follows:

---

*This amendment is related to the amendments proposed by the Canadian delegation to Section D of Chapter VI and Section B of Chapter VIII.

"Decisions of the Security Council on all other matters shall be made by an affirmative vote of not less than two-thirds of all the members of the Security Council including the concurring votes of the permanent members;"

Temporary Membership in the Security Council*

(Chapter VI, Section D)

Paragraphs 4 and 5 to be amended to read as follows:

"4. Any member of The United Nations not represented on the Security Council shall be invited to send a representative to sit as a member at any meeting of the Security Council during the consideration of matters specially affecting the interests of that member of The United Nations.

"5. Any member of The United Nations not represented on the Security Council and any state not a member of The United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to send a representative to sit as a member at any meeting of the Security Council during the consideration of the dispute."

The Security Council: Procedure

(Chapter VI, Section D)

Add new paragraph 6:

"The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration."

Determination of Threats to the Peace or Acts of Aggression and Action with respect thereto**

(Chapter VIII - Section B)

The following new paragraph to be inserted between paragraphs 7 and 8:

---

* This amendment is related to the amendments proposed by the Canadian Delegation to Section C of Chapter VI and Section B of Chapter VIII.

**This amendment is related to the amendments proposed by the Canadian Delegation to Sections C and D of Chapter VI.

"Any member of The United Nations not represented on the Security Council shall be invited to send a representative to sit as a member at any meeting of the Security Council which is discussing under paragraph 4 above the use of the forces which it has undertaken to make available to the Security Council in accordance with the special agreement or agreements provided for in paragraph 5 above."

Arrangements for International Economic and Social Cooperation.

Chapter IX

NOTE: The Canadian Delegation is of the opinion that the various provisions of Chapter IX of the proposals could with advantage be rearranged and clarified. It, therefore, submits a revised draft of this chapter which takes account of certain amendments proposed by other delegations. (Reference is made in brackets at the end of each provision to the related provisions of the Dumbarton Oaks proposals as presented in Conference Document 1).

Section A. Purposes.

(The statement of purposes might in the final drafting be removed from this chapter and consolidated with the general statement of purposes in Chapter I).

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations, (page 18, lines 10-13) members agree to cooperate fully with each other and with The United Nations (new) with the object of:

(a) attaining higher standards of living and economic and social progress and development (new)

(b) facilitating the solution of international economic, social and other related problems; (page 18, lines 13-14)

(c) promoting respect for human rights and fundamental freedoms. (page 18, lines 15-16).

Section B. Organization.

1. For the purpose of promoting international cooperation in economic, social and related fields and of

adjusting situations likely to impair the general welfare, the General Assembly shall initiate studies and make recommendations (page 5, lines 16-20) in such form as it considers appropriate to the members of The United Nations and to official international organizations and agencies brought into relationship with The United Nations (hereafter referred to as "related organizations and agencies"). (new) The United Nations shall, where appropriate, initiate negotiations among the nations concerned for the creation of any specialized economic, social or other organization or agency for the accomplishment of the objectives set out above (new).

2. To assist it in the discharge of its responsibilities the General Assembly shall establish an Economic and Social Council (page 18, lines 16-18) which, in addition to the functions more specifically enumerated under D and E below (new) shall receive reports from members of The United Nations and from related organizations and agencies on the steps taken to give effect to recommendations of the General Assembly (page 19, lines 15-16, and 20-22) and shall communicate its observations on such reports to the General Assembly. (new)

3. The Economic and Social Council may appoint such committees or commissions as may be required to assist it in the performance of its functions. (page 20, lines 14-18).

4. There shall be a permanent staff, which shall constitute part of the Secretariat of The United Nations, to assist the Economic and Social Council and such committees and commissions as may be appointed by it. (page 20, lines 18-20).

Section C. Structure of the Economic and Social Council. (page 19, line 4)

1. The General Assembly shall elect eighteen members of The United Nations whose representatives shall constitute the Economic and Social Council (page 19, lines 4-6). In the election of members, the General Assembly shall have due regard to the necessity of arranging for the adequate representation of states of major economic importance (new). The members to be represented shall be elected by the General Assembly for a term of three years (page 19, lines

6-8) but at the first election six members shall be elected for a term of one year, six members for a term of two years, and six members for a term of three years (new) (page 19, lines 8-9). Each such member shall have one representative who shall have one vote. Decisions of the Economic and Social Council shall be taken by simple majority, provided at least twelve members vote. (page 19, lines 9-11). The Economic and Social Council shall adopt its own rules of procedure and the method of selecting its President (page 21, lines 3-5).

Section D. Functions and Powers of the Economic and Social Council.

In addition to the functions enumerated elsewhere (new), the Economic and Social Council shall be empowered to (page 19, lines 13-14);

(a) receive and consider reports from related organizations and agencies (page 19, lines 20-22);

(b) communicate to the General Assembly and to members of The United Nations its observations on general questions of international economic and social policy arising out of its consideration of these reports (new);

(c) make on its own initiative studies, reports (new) and recommendations with respect to economic, social and other related matters of international concern (page 19, lines 17-19) to the General Assembly, to members of The United Nations and to related organizations and agencies (new);

(d) assist the Security Council upon its request and enable the Secretary-General to provide information to the Security Council (page 20, lines 7-9);

(e) perform services at the request of members of The United Nations and related organizations and agencies with respect to economic, social and other related matters, subject to the approval of the General Assembly (new);

(f) perform such functions as may be entrusted to it by intergovernmental agreement, subject to the approval of the General Assembly (new); and

(g) perform such other functions within the general

scope of its competence as may be assigned to it by the General Assembly (page 20, lines 11-13).

Section E. Relations with Other Official International Organizations (new)

(1) Economic, social and similar inter-governmental organizations and agencies having specialized responsibilities in their fields as defined in their basic instruments shall be brought into relationship with The United Nations on terms to be determined by agreement between the Economic and Social Council and the appropriate authorities of the specialized organizations or agencies, subject to approval by the General Assembly, (page 18, lines 19-23 and page 19, lines 1-3). Such agreements shall be initiated by the Economic and Social Council (new).

(2) The Economic and Social Council shall co-ordinate the activities of related organizations and agencies through consultation with, and recommendations to, such organizations and agencies (page 20, lines 1-2) and through recommendations to the General Assembly and to members of The United Nations (new).

(3) The Economic and Social Council shall make suitable arrangements with related organizations and agencies for the participation, where appropriate, of representatives of such organizations and agencies in its deliberations and in those of any committees or commissions established by it (page 20, lines 21-23 and page 21, lines 1-2), and for the participation of representatives of the Economic and Social Council in the deliberations of such organizations and agencies (new).

Secretariat
(Chapter X)

Add the following paragraphs:

4. The Secretary General and other personnel of The United Nations shall not seek or receive instructions in regard to the discharge of their responsibilities from any government or from any other authority external to The United Nations Organization. The Secretary General and other

personnel shall refrain from any action, including any public pronouncement, which may reflect upon their position as international officials, either in their own countries or elsewhere. Each member undertakes to respect fully the international character of the responsibilities of the Secretary General and other personnel and not to seek to influence them in the discharge of their responsibilities.

5. The appointment and conditions of service of the personnel of The United Nations shall be such as to permit the establishment of a truly international civil service with the highest standards of efficiency, competence and integrity. The personnel shall be selected by the Secretary General under rules to be established by the General Assembly. Positions shall be open equally to men and women. Subject to the paramount importance of seeking the highest standards of efficiency, competence and integrity, due regard shall be paid to the importance of recruiting personnel on as wide a geographical basis as possible.

6. With a view to ensuring the independence of The United Nations, the official international organizations or agencies brought into relationship with it, and the personnel of The United Nations and such related agencies, their legal status and appropriate immunities from national jurisdiction shall be defined by a Convention to be adopted by the General Assembly for submission to the members of The United Nations. The members undertake that they will in no case subject the personnel of The United Nations to legal process with respect to acts performed by them in their official capacity unless this immunity is waived by The United Nations.

AMENDMENTS

(Chapter XI)

The following additions to be made to this Chapter:

1. "No amendment shall be considered by the General Assembly unless its text has been communicated by the Secretary General to all members at least three months before the opening of the General Assembly.

2. In the course of the tenth year from the date on which the Charter shall come into effect, a special Conference of The United Nations shall be convened to consider the general revision of the Charter, in the light of the experience of its operation."

The United Nations Conference on International Organization

Doc.2 (ENGLISH)
G/7 (i)
May 2, 1945

GENERAL

COMMENTS OF THE CHILEAN GOVERNMENT ON THE DUMBARTON OAKS PROPOSALS

/TRANSLATION7

MEMORANDUM

In conformity with its traditional policy, the Government of Chile desires to cooperate in the establishment of an international organization for the preservation of world peace and security.

It has noted with interest the PROPOSALS FOR THE ESTABLISHMENT OF A GENERAL INTERNATIONAL ORGANIZATION, which were submitted to the Ministry of Foreign Relations of Chile by the Embassy of the United States, by instructions of its Government, on October 9 of the current year.

It has seen with satisfaction the fact that, according to the said proposals, "in order to achieve the purposes set forth in Chapter I, the Organization and its Members ought to act" in accordance with principles, the first of which is that "the Organization is based on the sovereign equality of all peace-loving States".

The Government of Chile is confident that the procedure will be in conformity with so fundamental and just a principle in deciding with respect to the "voting procedure in the Security Council" and "other questions that are still under consideration", and which, according to the text communicated, have not yet been settled; concerning which matters it is obliged to reserve its opinion as well as concerning such provisions of the proposals submitted as may be affected by what may subsequently be proposed.

The Government of Chile is confident, furthermore, that other fundamental principles of international harmony, always incorporated in the spirit of its political acts, will be taken into account in the consideration of these problems. On this subject, it repeats what has been stated in the Memorandum handed to the Embassy of the United States on August 22 last, and especially the following: a) Juridical equality of the States and respect for their sovereignty; b) pacific solution of controversies and disputes and abandonment of war as an instrument of national policy, there being respected the existing juridical system with regard to judicial settlement, arbitration and other means of giving a pacific solution to international differences; c) non-intervention in the domestic or foreign affairs of another State; d) scrupulous respect for treaties; e) basis of universality of every international society or organization for the safeguarding of world peace and security; f) maintenance and perfecting of the Pan American system; g) application, in the final analysis, of coercive power for preventing or impeding war, without this implying acceptance of a super-State, but rather the participation of peace-loving States within a system in which, for coercive action, there is taken into account the geographic military and economic situation of the respective countries, together with the political circumstances in which they find themselves.

In conformity with what has been said above, it deems it appropriate to state its approval of all those propositions of the proposals which, adhering to the said principles, offer norms for "maintaining peace and security and supporting the creation, by means of international cooperation, of conditions of stability and well-being that are necessary for peaceful and friendly relations among the nations". (Speech of President Roosevelt on June 15 of this year.)

In accordance with same criterion, it suggests the modifications that are set forth in paragraph 10 of the present Memorandum to the plan commonly called the Dumbarton Oaks Proposals.

Enlarging on what has been expressed in paragraph 5, it desires once more to repeat its adherence to the inter-American system and its firm desire that the spirit, bases and procedures of this system may be strengthened and may be in harmony with the general organization proposed.

In Chapter VI, Section A, it is proposed to increase to ten the number of non-permanent members of the Security Council, whereby would be created four new seats within the said Council. This is requested in the desire that

the Latin American countries may have on the Council a representation adequate to their number and importance and as a manifestation of the desire that these four seats may be assigned to them.

For greater clarity there is inserted below the complete text of the paragraphs modified or added, there being underlined the phrase of paragraph which the Government of Chile proposes in substitution. In parentheses is specified the kind of amendment introduced and it is indicated whether there are phrases eliminated from the original proposals.

Chapter I

PURPOSES

The purposes of the Organization should be:

1. To maintain international peace and security; and to that end to take effective collective measures for assuring respect for international Treaties, the prevention and removal of threats to the peace and the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means adjustment or settlement of international disputes which may lead to a breach of the peace. (Phrase intercalated.)

Chapter II

PRINCIPLES

5. All members of the Organization shall give it assistance in conformity with the provisions of its Charter in any action which the Organization may take in accordance with the said Charter. But whenever disputes affect a Continent or region and do not constitute a danger to the general world peace, the States of other Continents or regions shall not be obligated to participate in operations of a military nature decided upon by the Council and the Assembly. (This paragraph has been completely modified, beginning in the middle of the first sentence. The second sentence is a new addition.)

Chapter III

MEMBERSHIP

1. Membership should be open to all States that love peace and the democratic system. (Phrase intercalated.)

Chapter V

THE GENERAL ASSEMBLY

Section B

FUNCTIONS AND POWERS

1. The General Assembly should have the right to consider the general principles of cooperation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, in order to make effective the purposes and principles set forth in Chapters I and II; to discuss any questions relating to the maintenance of international peace and security brought before it by any member or members of the Organization or by the Security Council; and to make recommendations with regard to any such principles or questions. Any such questions on which action is necessary should be referred to the Security Council by the General Assembly either before or after discussion, but the Assembly should make a pronouncement on the matter without delay. The General Assembly should not on its own initiative make recommendations on any matter relating to the maintenance of international peace and security which is being dealt with by the Security Council, but it shall keep its right to express itself once the Council has done so. (The first two phrases intercalated; the last one added.)

6. The General Assembly should initiate studies and make recommendations for the purpose of promoting international cooperation in political, economic and social fields and of adjusting situations likely to impair the general welfare, in accordance with the purposes and principles indicated in Chapters I and II. (Phrase added.)

Section C

VOTING

2. Decisions relating to a military action of the Organization shall be adopted unanimously, without there being taken into account for that effect the vote of members that are parties in the respective question; recommendations with respect to the maintenance of international peace and security; election of members of

the Security Council; election of members of the Economic and Social Council; admission of members, suspension of the exercise of the rights and privileges of members, and expulsion of members; and budgetary questions, should be made by a two-thirds majority of those present and voting. On other questions, including the determination of additional categories of questions to be decided by a two-thirds majority, the decisions of the General Assembly should be made by a simple majority vote. (The phrase "Important decisions of the General Assembly" is eliminated, and the underlined part is inserted.)

Section D

PROCEDURE

1. The General Assembly should meet in regular annual sessions and in such special sessions as occasion may require and as decided upon by the Council or requested by two-thirds of the members of the Assembly. (Phrase added.)

Chapter VI

THE SECURITY COUNCIL

Section A

COMPOSITION

The Security Council should consist of one representative of each of fifteen members of the Organization. Representatives of the United States of America, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the Republic of China, and, in due course, France, should have permanent seats. The General Assembly should elect ten States to fill the non-permanent seats. These ten States should be elected for a term of two years, five retiring each year. They should not be immediately eligible for reelection. In the first election of the non-permanent members five should be chosen by the General Assembly for one-year terms and five for two-year terms. (It is proposed that the number of members of the Security Council be fifteen instead of eleven, and the respective numbers in this article have consequently been changed.)

Section B

PRINCIPAL FUNCTIONS AND POWERS

1. In order to ensure prompt and effective action by the Organization, members of the Organization should by the Charter confer on the Security Council primary responsibility for the maintenance of international peace and security and should agree that in carrying out these duties under this responsibility it should act on their behalf. Such responsibility would last so long as the Assembly does not function and until it is called. (Sentence added.)

6. Decisions of the Council tending to impose, with respect to determined cases, specific obligations upon members of the Organization, or upon certain of them, likewise require the approval of the Assembly by a majority in which, in addition to the votes of the States that are members of the Council, other States participate until reaching two-thirds of the members present in the Assembly. (New paragraph added.)

7. In cases of decisions of the Council that conform to the purposes and principles set forth in Chapters I and II and do not obtain a two-thirds vote in the Assembly, there is nothing to prevent from proceeding in accordance with the said decisions those members of the Council and those members of the Assembly who may have voted in favor of them or may voluntarily grant such participation. (New paragraph added.)

8. With respect to compulsive actions and collaborations of a military nature, there shall be obligated to participate therein only those States which shall have agreed to it by a ratified Agreement, as provided in Chapter VIII, Section A, Paragraph 5. (New paragraph added.)

9. In cases of non-participation of members of the Organization in actions of the latter or of its members, in accordance with paragraphs 6, 7 and 8 above, non-participating members may not take positions or attitudes which may hinder or thwart such actions. (New paragraph added.)

Section D

PROCEDURE

5. Any member of the Organization not having a seat on the Security Council and any State not a member of the

Organization should be invited to participate in the discussion relating to a dispute if such member or State is a party to a dispute under consideration by the Security Council, or if, without its being a party to such dispute, the decisions that might be taken thereon would affect it. (Phrase added.)

Chapter VIII

ARRANGEMENTS FOR THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY, INCLUDING THE PREVENTION AND SUPPRESSION OF AGGRESSION

Section A

PACIFIC SETTLEMENT OF DISPUTES

3. A dispute the existence of which might endanger the maintenance of international peace and security should obligate the parties, first of all, to seek a solution through negotiation, investigation and examination, mediation, conciliation, arbitration or judicial settlement, or such other pacific means as they themselves may determine. The Security Council should call upon the parties to settle their dispute by the means indicated. (Phrase interpolated.)

7. The provisions of paragraphs 1 to 6 of this Section should not be applied to situations or disputes already solved by treaties in force or growing out of questions which, according to international law, are solely within the domestic jurisdiction of the State concerned. (Phrase interpolated.)

Section B

DETERMINATION OF THREATS TO THE PEACE OR OF ACTS OF AGGRESSION AND ACTION WITH RESPECT THERETO

1. Should the Security Council believe that failure to settle a dispute in accordance with procedures indicated in paragraph 3 of Section A above, or in accordance with its recommendations under paragraph 5 of the said Section A, constitutes a threat to the maintenance of international peace and security, it should take any measures necessary for the maintenance of international peace and security which are in accord with the purposes, principles and Charter of the Organization. (The phrase "purposes and principles of the Organization" is amended to "purposes, principles and Charter of the Organization").

5. To the end that all members of the Organization may contribute to the maintenance of international peace and security, they should undertake to make available to the Security Council, on its call and in conformity with a special agreement or agreements concluded among themselves, armed forces, facilities and assistance necessary to maintain international peace and security. Such agreement or agreements should govern the numbers and types of the forces and the nature of the facilities and assistance to be provided. The special agreement or agreements should be negotiated as soon as possible, and in each case should be subject to approval by the Security Council and to ratification by the signatory States in accordance with their constitutional processes. (The phrase "puedan contribuir" [may contribute] is substituted for the word "contribuyeran" [should contribute]).

7. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security should be taken by all the members of the Organization in cooperation or by some of them, as may be determined by the Security Council and the agreements referred to in paragraph 5 above. This undertaking should be carried out by the members of the Organization by their own action and through action on the part of the appropriate specialized organizations and agencies of which they are members. (The clause "as the Security Council may determine" is replaced by the clause "as may be determined by the Security Council and the agreements referred to in paragraph 5 above.")

9. A Military Staff Committee should be established the functions of which would be to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, to the employment and command of forces placed at its disposal, to the regulation of armaments, and to possible disarmament. It should be responsible, under the Security Council, for the strategic direction of any armed forces placed at the disposal of the Security Council. The Committee should be composed of the Chiefs of Staff of the permanent members of the Security Council or their representatives. The Committee should invite any member of the Organization not permamently represented on it to join the Committee when the case or the measures that may be taken with respect thereto concern it or are bound to affect it or when the efficient discharge of the Committee's responsibilities requires that such State should participate in its work. Questions of Command of Forces should be worked out subsequently. (Clause interpolated)

10. The members of the Organization should join, according as may be possible, in affording mutual assistance, in conformity with this Charter, in carrying out the measures decided upon by the Security Council. (Two phrases interpolated).

Section C

REGIONAL ARRANGEMENTS

1. Nothing in the Charter should preclude the existence and functioning of continental or regional systems or agreements, or of agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that the said arrangements or agencies and their activities are consistent with the purposes and principles of the Organization. The Security Council should encourage settlement of local disputes through such regional agreements or by such regional agencies, either on the initiative of the States concerned or by reference from the Security Council. (The phrase "existence of regional arrangements" is replaced by "existence and functioning of continental or regional systems or agreements". Likewise the word "arrangements" is replaced by "agreements".)

2. The Security Council should, where appropriate, utilize such agreements or agencies for enforcement action under its authority, and consequently it should not take any action with respect to matters or places concerning a continent or region to which there might be applied efficaciously the respective continental or regional system but no enforcement action should be taken under regional agreements or by regional agencies, without the authorization of the Security Council. (A clause interpolated and replacement of the word "arrangements" by "agreements".)

4. The enforcement actions and collaborations of a military character of members of the organization shall not be compulsory for each one of them regarding cases pertaining to continents other than their own, except in the cases and with the limitations determined in paragraphs 5 to 9 of Chapter 6, Section B. (A new paragraph added.)

Chapter XII

TRANSITORY SOLUTIONS

3. In cases in which, in accordance with paragraphs 1 and 2 above, or when required by circumstances, provisional measures are taken, they shall not constitute a precedent to impair any of the rights of the States members of the organization. (New paragraph added.)

4. According as provided in Chapter III, the members of the organization invite all States to adhere to its Charter and to enter the Organization which love peace and democratic principles and which give a guarantee that they will fulfill international agreements. (New paragraph added.)

5. This Charter shall be ratified; it shall be in force for each signatory or adhering State from the moment of the deposit of the respective instrument of ratification and until six months following the date on which it denounces it by a written communication addressed to the Secretary General. (New paragraph added.)

The Government of Chile reserves the right to submit a counter draft and to pronounce upon the points which have not yet been settled in the draft communicated by the United States Embassy, at the opportune moment.

Chilean Embassy
Washington, D.C., December 11, 1944.

The United Nations Conference on International Organization

Doc. 2 (ENGLISH)
G/7 (i) (1)
May 6, 1945

GENERAL

ADDITIONAL AMENDMENTS AND PROPOSALS BY THE DELEGATION OF CHILE

The Delegation of Chile proposes that the preamble to the Charter of the United Nations International Organization, setting forth its fundamental principles, be known as "The Roosevelt Memorial", in homage to the late illustrious President of the United States of America, who dedicated his life to the service of these ideals.

Commission I

CHAPTER II. PRINCIPLES

To achieve the purposes expressed in Chapter I, the Organization and its members should act in accordance with the following Principles:

(1) The International Community

(1) The organization of the International Community is founded upon the co-operation of all States. No State shall be able to release itself from the ties that bind it to the International Organization.

(2) The interdependency of States is the essential basis of their reciprocal relations and obliges each country to place its culture, its science and its work at the service of the Community.

(3) This interdependency must be founded on Justice with the aim of establishing moral unity within the International Community and of achieving a harmonious balance between the sovereignty and the interdependency of States.

(4) Regional groups shall be free to adopt for relations between their members special norms which are not in conflict with the higher interests of the Interests of the International Community.

(2) The Concept of Sovereignty

(1) States are sovereign and all equal before the law. The State is lord of its territory, can grant itself whatever democratic form of government it may desire within standards which respect the inalienable rights of man and can determine its own laws and enter into relations with all other States.

(2) States bind themselves to respect the principles of International Morality. Their sovereignty is limited by the rights of other States and by the rules of International Law.

(3) Any act of aggression committed against a State shall be considered an act of aggression committed against all the members of the International Community. Neutrality is consequently abolished, and States shall not grant equality of treatment to the various parties to a conflict once the competent Organization has determined which one is the aggressor.

(3) Repudiation of the use of force

(1) Peace is the normal life of States. The International Community repudiates war not only as an instrument of national and expansionist policy but also as a procedure for settling international disputes.

(2) Only the International Community, by means of its various organizations, may employ force in order to prevent or repel aggression and maintain the rule of law.

(4) Settlement of international disputes

(1) States are bound to settle their disputes by peaceful means.

(2) Respect for and faithful observance of treaties constitute a necessary norm for the development

690

of peaceful relations between States, and it shall be possible to revise treaties only with the agreement of all parties thereto.

(5) Limitation of armaments

(1) An equitable solution to the problem of armaments is an essential condition for the maintenance of peace.

(2) Production of war implements and trading in armaments must be exclusively a function of the State.

(6) Elimination of factors causing conflicts

(1) An essential condition for peace is the elimination of the political and economic nationalisms which are the seeds of the totalitarian State.

(2) Social justice and the raising of the standards of living of the peoples of the world are essential to the maintenance of peace.

(3) Political and economic imperialism shall be outlawed.

(4) Governments are bound to guarantee to their people freedom of the press and a free and impartial access to sources of information.

(7) Fundamental rights of the individual

(1) Every State must guarantee to the individual the full and complete protection of his right to live and, of his right to freedom and work, without any distinction of nationality, race, sex or religion.

(2) Every State must recognize for the individual the right to the free exercise, both in public and in private, of his religion and his profession, science or art, as long as the practice thereof is not incompatible with public morals.

(8) Asylum and political refuge

(1) All States are bound to recognize among themselves the right of asylum for political, social, religious and racial refugees. This right is not valid in the case of war criminals classified as such by the Security Council.

(9) Defense of Democracy

(1) Democratic principles are essential to peace.

(2) No State can, without the agreement of the International Community, grant recognition to a *de facto* government until the latter has demonstrated that it fulfils its international obligations and is resolved to allow institutions to function according to their normal democratic manner.

(10) Economic interdependence

(1) Economic cooperation and collaboration are essential to the common prosperity of all nations. A low standard of living for the people of any one of them affects each one of them and, therefore, all of them together.

COMMISSION II. (The General Assembly)

Chile submitted to the Mexico City Conference various comments concerning the Dumbarton Oaks Proposals. Among others, it expressed Chile's desire that attention be given to points relative to the system of Recommendations established in the said Proposals and which had been examined by the Inter-American Juridical Committee in Rio de Janeiro in the various pertinent parts of its Comments and Recommendations, under date of December 8, 1944.

In conformity with this initiative of Chile, that country's delegates to the respective Committees of Commission II beg to insist on the point of view expressed by Chile concerning the said system of Recommendations.

In support of its opinion, Chile need only quote here the various paragraphs of the said report which relate to the subject.

On examining Section B (Principal functions and powers) of Chapter V, the report states:

> "Under the provisions relative to functions and powers (No. 1) the General Assembly is authorized to make recommendations with respect to the general principles of cooperation in the maintenance of international peace and security, and with respect to any questions relating to the maintenance of peace and security which may be brought before it by any member of the Organization or by the Security Council. The provisions require clarification. It would appear that the competence of the General Assembly in this field is to be exercised in such a way as not to impede the action of the Security Council, which is made primarily responsible for the maintenance of international peace and security. Hence the distinction is made between questions on which action is necessary and those which do not require action. The former are to be referred to the Security Council, either before or after discussion. No limitation is placed, therefore, upon mere discussion by the General Assembly of any question affecting the maintenance of peace. But if a particular matter is being dealt with by the Security Council, the General Assembly should not upon its own initiative make a recommendation on the matter. The Juridical Committee interprets this provision to mean that the initiative in such cases would have to come from the Security Council, otherwise the purpose of the limitation imposed for the protection of the Security Council would be defeated.

[illegible]

[illegible]

[illegible] group [illegible]

[illegible]

[illegible]

[illegible]

"Nothing is said to indicate to whom the recommendations of the General Assembly are to be made. It might be inferred that a recommendation in respect to a question on which action is necessary should be made to the Security Council. But this is not specified. There is merely the negative provision that a recommendation is not to be made if the matter is being dealt with by the Security Council. In respect to other recommendations, that is to say, those on which no action is necessary, the Juridical Committee assumes that they would be made to the governments, or possibly to the particular parties to a dispute; and that they would be no more than expressions of opinion by the General Assembly as to the policy that it would be desirable to follow under the circumstances. Inasmuch as the provisions of No. 1 refer to recommendations with regard to 'the general principles of cooperation in the maintenance of peace and security', the Juridical Committee interprets this phrase as meaning more than mere recommendations in regard to specific disputes, and it assumes that they would be included under the recommendations authorized in respect to political matters under the terms of No. 6.

"As has been observed above, the provisions of No. 1 prohibit the General Assembly from making recommendation upon any matter relating to the maintenance of peace and security which is being dealt with by the Security Council. The prohibition would seem to be necessary in respect to a recommendation directed to the individual governments, in order to avoid a conflict with the decision of the Security Council. But there does not appear to be any reason why a recommendation might not be made by the General Assembly to the Security Council, as a means of expressing the public opinion of the whole body of states upon the question at issue. The Security Council would remain free to act, in accordance with its judgment of the merits of the recommendation."

Further on, it adds:

"The General Assembly is given (No. 6) power to make 'recommendations' for the purpose of promoting international cooperation in political, economic and social fields and of adjusting situations likely to impair the general welfare. This is a broad competence, and in view of the different interpretations that might be put upon it, it requires clarification. In the first place it is not clear to whom the General

Assembly is to make its recommendations. (See the discussion of this same point in respect to the recommendations which the General Assembly is authorized to make under No. 1). The alternatives in this case would appear to be that the recommendation should be made either to the Security Council or to the governments direct. No provision is made, however, in Chapter VI, B, dealing with the powers of the Security Council, for action by the Security Council upon recommendations of the General Assembly in the fields of political, economic and social cooperation. Hence it is to be inferred that the recommendations of the General Assembly in these fields are not to be made to the Security Council, for want of power by that body to act upon them.

"The alternative is that recommendations of the General Assembly are to be made to the governments direct. But this interpretation, if applied to all recommendations, would reduce the General Assembly to a purely consultative body, subject at all times to the necessity of submitting its views to the individual states for their separate approval. This is scarcely compatible with the position assigned to the General Assembly as one of the principal organs of the Organization. At the same time it would seem to be in conflict with the terms of Chapter IX, A, which vest responsibility for promoting international cooperation in economic and social matters in the General Assembly, thus implying that the General Assembly is more than a mere consultative body.

"It would seem desirable, therefore, that a clause be added to No. 6 clarifying the nature of the recommendations which the General Assembly is empowered to make under that head. If the recommendations of the General Assembly are in any case to have the force of 'resolutions', taking effect immediately upon their adoption, specific provision should be made to that end.

"What should be character of the recommendations or resolutions which the General Assembly might be authorized to make without the necessity of reference to the individual governments for their separate ratification? The subject is a difficult one, in view of the fact that the General Assembly is authorized to act by a two-thirds majority, which would have the effect of binding the other states to put the recommendation into effect. The Juridical

Committee would propose that a distinction be made between recommendations providing for international cooperation in matters of general interest and recommendations changing the rules of international law. 'International cooperation', as distinct from the regulation of conflicting interests, appears to be the specific objective of No. 6, and it would seem desirable that the General Assembly should be able to take decisions at least in the field of economic and social cooperation, without the necessity of submitting the proposed measures for ratification. The fact that the General Assembly is required to make 'important decisions' by a two-thirds vote would suggest the possibility of decisions that are more than mere recommendations, as well as the further fact that recommendations facilitating solutions of economic and social problems, provided for in Chapter IX, are to be carried out by the Economic and Social Council. The Juridical Committee would recommend, therefore, that the terms of No. 6 be clarified so as to permit the adoption of recommendations of this kind without the necessity of referring them to the governments for approval.

"In contrast to the recommendations above referred to, providing for international cooperation in matters of general interest, would be recommendations having as their principal purpose a change in the rules of international law. Action by the General Assembly in this field does not appear to be contemplated by the provisions of No. 6; but in view of the broad phrasing of the provisions of this number, the Juridical Committee believes it necessary to emphasize that if the power of the General Assembly to make recommendations is intended to include resolutions, taking effect of themselves, such resolutions could not go so far as to have the effect of changing the rules of international law in the sense of modifying the established rights and duties of states. The General Assembly might properly make recommendations in this field, acting in this respect in the role of an international conference for the codification of international law. But all such recommendations should be referred to the separate states for ratification in accordance with their constitutional procedures. This was doubtless the intention of the Proposals, since it is not to be believed that so important a matter would have been left to be decided in the opposite sense by mere inference from the broad competence assigned to the General Assembly under No. 6.

"Who is to make the distinction between recommendations providing for cooperation in matters of common interest and recommendations changing the established rules of international law? The line might be at times difficult to draw, since measures of cooperation would in most cases involve the assumption of new obligations in respect to the matter which is the object of cooperation. The Juridical Committee would recommend that the General Assembly be permitted to make the distinction, subject to a rule laid down for it to that effect in the Charter.

"The necessity of ratification by the separate states of recommendations of the General Assembly proposing changes in the established rules of international law makes it desirable that a provision should be adopted in accordance with which these recommendations would come into effect when ratified by a fixed number of the members of the Organization. The Juridical Committee would recommend that the General Assembly determine, at the time of the adoption of the recommendation, the number of ratifications necessary to bring the new rule of law into effect for the particular states ratifying it. The proposed rule might be in the form of a resolution attached to the recommendation or in the form of a general convention. The position of states not ratifying the resolution or convention would be temporarily anomalous, as has been the case in the past when general conventions have been ratified only by a limited number of states. It is to be expected, however, that the new rule of law, assuming it to be in accordance with the principles of the Organization, would in due time come to be accepted as the expression of the will of the international community. While the procedure above proposed falls short of the desire of many jurists for a more effective method of codifying and developing international law, the Juridical Committee does not believe that states are as yet ready to modify their constitutional procedures so as to permit the adoption of legal obligations by vote of an assembly of plenipotentiary representatives."

Further on, in dealing with Chapter IX, Section A (Purposes and relationships), the report adds:

"In respect to the function of promoting solutions of international economic and social problems, it would appear that the provisions of Section A, 1, overlap those of Chapter V, B, 6, dealing with the

competence of the General Assembly to make recommendations in the field of political, economic and social cooperation. The Juridical Committee interpreted the provisions of Chapter V, B, 6, as intending that the recommendations of the General Assembly were to be made to the governments direct. (See above, p. 12) At the same time the Juridical Committee believed it desirable to propose that recommendations of the General Assembly in the field of economic and social cooperation might have the character of resolutions taking effect without the necessity of referring them to the governments for ratification. In coming to this conclusion the Juridical Committee found itself justified by the provisions of Chapter IX, which impose upon the General Assembly the responsibility for facilitating solutions of economic and social problems and which assign to the Economic and Social Council the power to carry out the recommendations of the General Assembly. Both of these provisions suggest that the recommendations of the General Assembly might be carried out without the necessity of first submitting them for ratification.

"In discussing the possible scope of recommendations of this character in connection with the broad powers of the General Assembly under the terms of Chapter V, B, 6, the Juridical Committee called attention to the necessity of distinguishing between recommendations providing for international cooperation in matters of common interest and recommendations changing the rules of international law in the sense of modifying the established rights and duties of states. Recommendations in this latter field should be subject to ratification by the separate states before they can create obligations for the members of the Organization. It is suggested that it would be a safe provision to leave it to the General Assembly itself to determine, on the basis of the above distinction, whether the particular recommendation before it is one which requires ratification by the separarate governments or is one which merely involves cooperation in matters of common interest not involving a conflict of rights, and which might therefore be put into effect without the necessity of ratification. It will doubtless never be possible to draw a logical line between the two classes of recommendations. But for practical purposes a line must be drawn; and it would seem best that the General Assembly should be the body to draw it."

And on referring to Section C (Functions and Powers of the Economic and Social Council) of Chapter IX, the report states:

> "By No. 1, a, the Economic and Social Council is empowered to carry out, within the scope of its functions, recommendations of the General Assembly. The Juridical Committee has already pointed out the need of clarification in respect to the effect of the recommendations of the General Assembly, due to the conflict which exists between the provisions of Chapter V, B, 6, which appear to contemplate recommendations to be made to the governments, and the provisions of the present section which appear to contemplate recommendations to be put into effect without reference to the governments."

As for the Recommendations emanating from the Security Council, according to Chapter VIII, Section A, paragraph 5, there is no reason to doubt that they should be addressed to the Governments which are parties to a dispute, but without their being of a binding character. They should be distinguished from the "decisions" of the Council.

* * * *

The Delegation of Chile therefore begs to propose that there should be included in the text of the Charter those clarifications which, concerning the system of Recommendations, are recommended by the Report of the Inter-American Juridical Committee of Rio de Janeiro, of December 8, 1944, and that they should be drawn up in the form which may be considered most appropriate.

Comments of the Chilean Delegation on Chapter IX of the Dumbarton Oaks Proposals which contemplates the creation of an Economic and Social Council.

The post-war programs of the United Nations and the speeches which have been heard at the Conference make it evident that all the countries attach fundamental importance to international economic cooperation for the maintenance of peace. The Chilean Delegation is of the opinion, therefore, that the functions and powers of the Economic and Social Council to be established should meet such expectations and that this organization should be given power to assume the responsibilities incumbent upon it in accordance with the expressed ideas above.

The Dumbarton Oaks Proposals do not consider all the adequate provisions toward such end. Consequently, the Chilean Delegation presents the following comments:

I. Section A of Chapter IX. Purpose and Relationships. - The statement under No. 1 on the purposes of the Economic and Social Council seems to be insufficient. In the first place, no mention is made of one of the principal objectives which a body of this character should pursure: To promote concerted action among the nations belonging to the Organization for the study and solution of the principal international economic and social problems.

The lack of joint action in dealing with these matters has constituted in the last fifteen years one of the most serious obstacles to the adequate solution of economic and social problems affecting various countries.

Within the ideas above set forth, paragraph 1 of Section A could be worded as follows, or in a similar way:

> "With a view to the creation of necessary conditions of stability and well-being and to the promotion of concerted action toward creating more material conditions in all countries for ensuring international tranquility, the organization should concern itself permanently with studying the economic and social condition of member countries, facilitating the solution of problems of such nature and other international humanitarian problems which may be presented to it, and promoting

respect for human rights and fundamental freedoms. Responsibility for the discharge of this function should be vested in the General Assembly and, under the authority of the General Assembly, in an Economic and Social Council."

II. In recent times there has been created a series of organizations of an economic and social nature, some under the League of Nations and others of an autonomous character. These organizations, the majority of a technical nature, have succeeded in acquiring through many years of study a great fund of knowledge and experience concerning international economic and social problems.

So, it is necessary that the already existing agencies having objectives or purposes identical with or similar to those of the Economic and Social Council be incorporated in the new General Organization most adequately. In the case of autonomous agencies, like the International Labor Office, an endeavor should be made to establish an appropriate relationship, not forgetting that the Economic and Social Council, due to its universal nature and character, should be the agency which should have jurisdiction over the fixing of rules of general policy, which is the indispensable basis for the proper coordination and success of any economic and social policy of an international character.

It is also indispensable that the new Organization sponsor and stimulate the functioning of economic and social agencies of a regional nature which are inspired by the same purposes and objectives as those pursued by the World Organization. By reason of special circumstances of a political and economic nature, organizations of a regional character can sometimes go further in systems of international cooperation or aid, a situation which is of interest to all nations becuase of the favorable repercussion which this has in world economy.

In the opinion of this Delegation, the text of paragraph 2 of Section A of Chapter IX might be worded as follows:

"The various specialized economic, social and other organizations and agencies now existing will be incorporated into the Organization in accordance with arrangements to be agreed upon and will have responsibilities in their respective fields as defined in their statutes. Each such organization

> or agency will be brought into relationship with the Organization on terms to be determined by agreement between the Economic and Social Council and the competent authorities of the specialized organization or agency concerned, subject to approval by the General Assembly. In the arrangements made between the Organization and the said organs or agencies, care should be taken to reserve to the Organization the proper direction which it will exercise over them with respect to the general rules of economic and social policy.
>
> "The Organization should facilitate the functioning or the creation of regional agencies having similar objectives."

III. Section C, Chapter IX. Functions and Powers of the Economic and Social Council. - In harmony with the viewpoints expressed above, it is necessary that the Economic and Social Council be empowered to study and recommend solutions to the more serious and urgent general economic problems. The recommendations made by the Economic and Social Council within its sphere of action shall be considered by all nations belonging to the Organization, such nations to endeavor to have the recommendations carried out.

To this end, it is necessary to change the wording of paragraph (b), Section C, Chapter IX, including among the powers of the Council that of making recommendations for the solution of economic and social problems which perturb or may perturb the well-being or peaceful relationships of nations. Paragraph (b) might thus be worded as follows:

> "(b) To make recommendations, on its own initiative, with respect to international economic, social and humanitarian matters which affect or may affect the well-being or the peaceful relationships of nations. Members of the Organization shall consider and endeavor to carry out such recommendations."

Joaquín Fernández

JOINT DRAFT AMENDMENT TO CHAPTER VIII, SECTION C, OF THE DUMBARTON OAKS PROPOSALS SUBMITTED BY THE DELEGATIONS OF CHILE, COLOMBIA, COSTA RICA, ECUADOR, AND PERU IS CONTAINED IN A SEPARATE DOCUMENT AT THE END OF THIS VOLUME.

The United Nations Conference
on International Organization

GENERAL

DOC. 1 (ENGLISH)
G/1 (a)
May 1, 1945

CHINESE PROPOSALS ON DUMBARTON OAKS PROPOSALS

CHINESE PROPOSALS ON DUMBARTON OAKS PROPOSALS

The four Governments sponsoring the United Nations Conference on International Organization at San Francisco have agreed to support the following proposals put forward by the Chinese Government:

"1. The Charter should provide specifically that adjustment or settlement of international disputes should be achieved with due regard for principles of justice and international law.

"2. The Assembly should be responsible for initiating studies and making recommendations with respect to the development and revision of the rules and principles of international law.

"3. The Economic and Social Council should specifically provide for the promotion of educational and other forms of cultural cooperation."

These proposals were developed during the course of the Chinese phase of the Dumbarton Oaks Conversations last fall and were agreed to at that time by the United States, the United Kingdom, and China. They have now been considered with the Soviet Government and that Government has agreed to join in sponsoring the proposals for presentation to the San Francisco Conference.

GENERAL

May 4, 1945

AMENDMENT SUBMITTED BY THE CHINESE DELEGATION

New paragraph to follow paragraph 6, Section (B), Chapter V:

Subject to the provisions of paragraph 1 of this Section, the General Assembly should be empowered to recommend measures for the peaceful adjustment of any situations, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the Purposes and Principles set forth in this Charter.

AMENDMENTS PROPOSED JOINTLY BY THE GOVERNMENTS OF CHINA, THE UNION OF SOVIET SOCIALIST REPUBLICS, THE UNITED KINGDOM, AND THE UNITED STATES ARE CONTAINED IN A SEPARATE DOCUMENT AT THE END OF THIS VOLUME.

The United Nations Conference on International Organization

Doc. 2 (ENGLISH)
G/14 (s)
May 6, 1945

GENERAL

DRAFT AMENDMENTS TO THE DUMBARTON OAKS PROPOSALS BY THE COLOMBIAN DELEGATION

The High Contracting Parties,

In order to promote cooperation among nations and to guarantee them peace and security,

Agree that the following are necessary:

I. To declare that the international recognition and protection of the essential rights of the individual is a necessary condition of peace, both within States and in their relations with each other;

II. To recognize that the practice of democracy within the State and in the latter's international relations is a necessary element of peace and of good understanding among the peoples of the world;

III. To observe scrupulously the dictates of the Law of Nations and the precepts of international morality and justice;

IV. To accept good faith and a faithful observance of international treaties as a principle and norm in any organized international community;

V. To outlaw territorial conquest and the doctrine of accomplished facts;

VI. To establish the principle of the equality before Law of all States, whatever their population, their wealth, their strength or their territorial extent, but to admit, at the same time, that the Great Powers, because they have greater international responsibility, must likewise exert a greater functional influence in the organization of the world;

VII. To condemn any intervention of one State in the internal affairs of another;

VIII. To renounce the use of force as a means of settling disputes between States, and to declare that war of aggression constitutes a crime in international law and involves not only the responsibility of the aggressor State but also the personal responsibility of the political and military leaders of that country;

IX. To pledge themselves to settle by peaceful means (negotiation, investigation, conciliation, arbitration or judicial settlement) all disputes that may arise between States, whatever their origin or nature;

X. To declare that any attempt upon the territorial integrity, the sovereignty or the political independence of a State constitutes an act of aggression committed also against all the other members of the international community;

XI. To proclaim that the principles of international solidarity and cooperation which are incorporated in the document known as the Atlantic Charter, signed on August 14th, 1941 by the President of the United States of America and the Prime Minister of the United Kingdom of Great Britain and Northern Ireland, constitute minimal norms of conduct which every civilized State must observe and respect;

Have agreed to adopt the present Covenant of the United Nations:

COSTA RICA
December 5, 1944

(TRANSLATION)

EMBASSY OF COSTA RICA
WASHINGTON, D. C.

ESTABLISHMENT OF AN INTERNATIONAL ORGANIZATION

The Government of Costa Rica deems it indispensable to seek at once the fixing of norms constitutive of the international community and for this reason views with intense sympathy the proposals, submitted for its study, for the establishment of a General International Organization.

It does not hesitate to accept it as an initial basis and hopes that with the contribution of all those familiar with the subject and with the fruits of experience it can be perfected as an instrument of justice and of harmony between all civilized nations.

For the purpose of demonstrating its definite approval of the effort to create such an organization, the Government of Costa Rica formulates the following observations:

No. 1. One must consider as a goal, even if not at present a possible reality, the institution of this organization with so universal a nature that every state, by the very fact of being one, may belong to the international society created, just as there is no individual but belongs to some particular nation. - Chapter III. Only on this premise will it be possible to build the community of all nations having its own structure and means of making the transgressions of its members subject to the rules accepted by all. That would be the guarantee of the 4th, 5th, 6th and final principles of Chapter II. In paragraph 4 the last part should be omitted in order that the principle of abstention from the use of force may be absolute.

No. 2. Although centralization of the functions of security and, hence, attribution of resolutive powers to the Security Council is deemed appropriate, it is also felt that there might be granted to the General Assembly, upon the proposal of any of its members and by a majority vote, the power at least to propose some measure tending to safeguard the peace and the effectiveness of the principles admitted as bases of the organization. By that method, which was included in the covenant of the League of Nations, an opportunity would be afforded for manifestation of the will and thought of all states and the result would be left subject to the judgment of the majority in the General Assembly. Such an attribution appears even more advisable with respect to sanctions that may be imposed upon states which violate the admitted organic bases. It should be borne in mind that the entity is strengthened by giving action to all its component parts which, otherwise, eventually lose interest in its operation. Chapter V.

No. 3. In regard to the formation of the Security Council there might be suggested the advisability of granting a place to the American states in addition to that set aside for the United States. It is a group of nations which has maintained a firm attitude in behalf of the canons of international justice, aside from collaboration in the supplying of raw materials and foodstuffs. Because of these merits in deciding the conflict, because of the great expanse of territory and large population which they represent, because of their political and economic importance and because of the culture which they possess, these nations are of value to the new organization and could make an appreciable spiritual contribution to the deliberations and decisions of the Council. Hence it is suggested that there be assigned a fixed position on the Council to one of the American Republics in addition to the United States. Chapter VI.

No. 4. With respect to the Court of Justice, the plan follows that of the League of Nations and merits entire acceptance. Some thought might perhaps be given to the possibility of there being submitted to it not only questions of a juridical nature but all questions; even those of a political character, that might affect the general security or peace; and likewise to the creation of regional courts in addition to the central one for the purpose of facilitating access to judicial procedure. Chapter VII.

No. 5. For the peaceful solution of controversies, the proposals are well taken. It would be preferable to ordain that the Security Council require, not simply ask, the parties to settle their differences by pacific means, in order to strengthen its intervention in favor of peace. Paragraph 4. Chapter VIII. Section A.

No. 6. The power conferred upon the Organization to adopt measures of material compulsion in enforcing its decisions and maintaining harmony in the world fully satisfies the universal conscience. To use force in such cases is not to make war but to keep the peace. Chapter VIII. Section B.

No. 7. With respect to international cooperation in the solution of economic and social problems, it would perhaps be well to incorporate in the Organization the International Labor Office founded by the League of Nations of Geneva. Its operation has continued and has been efficient, and has the good wishes of all States. If the antecedent of the League of Nations has been cited for the Tribunal or Court of Justice, it could be cited with equal or greater reason in respect to the Labor Office. Chapter IX.

No. 8. In the said Chapter IX, it would be possible to clarify the meaning of the expression: "promote respect for human rights and fundamental freedoms". The propaganda of ideas and principles for those purposes is of enormous import to humanity; but it is certain that if the word "promote" is taken as the power to coerce the States or to initiate some social movement within them, even with that orientation, such a precept would not be admitted by any of them. It should be specified that the activity of the Organization in this field is to be exclusively of a cultural nature.

No. 9. Amendments to the Statutes of the Organization, by analogy with norms generally accepted for collective private entities, might be adopted by a two-thirds majority vote.

No. 10. Although the proposals do not fix the number of votes necessary to consider as admitted and valid a proposal or resolution in the Security Council, it appears that the furthest one could go would be to establish for that purpose a two-thirds majority. Thus is raised, in favor of a greater endorsement, the proportion which is required for any constitutional amendment by public organizations and even private groups. Chapter VI.

There might also be considered the advisability, both in the General Assembly and in the Security Council, for the delegates of the States to which acts of aggression against other Members of the Organization are attributed to abstain from casting their vote in the corresponding decision, but to have at the same time complete freedom to take part in deliberations on the matter.

No. 11. The recognition of regional arrangements is useful for coordination of the interests of the States, since it facilitates understanding for common purposes derived especially from geographic situation. Section C. Chapter VIII.

In general, Costa Rica adheres with complete firmness to the proposals for founding the International Organization that have been formulated, the said proposals containing wholesome improvements upon former efforts made for the maintenance of harmony between civilized nations; and it trusts that with the cooperation of all Governments it will be possible to perfect what has been proposed and to begin its operation in the near future.

Washington, D. C., December 5, 1944.

2

The United Nations Conference
on International Organization

Doc. 2 (ENGLISH)
G/7 (h) (1)
May 4, 1945

GENERAL

COMMENTS OF THE GOVERNMENT OF COSTA RICA ON THE DUMBARTON OAKS PROPOSALS

The Delegation of Costa Rica hereby reiterates and in order that they be taken into account in the deliberations of the United Nations Conference on International Organization, the remarks made by the government of its country to the Department of State of the United States concerning the Dumbarton Oaks Proposals. These remarks were as follows:

1. The Government of Costa Rica believes that it is absolutely necessary to formulate immediately certain essential norms for the international community, and for that reason looks with great sympathy on the said proposals for the establishment of a General International Organization. It does not hesitate to accept them as a basis and starting-point and it hopes that, with the help of all those who are qualified and with the benefit of experience, it can be perfected as an instrument of justice and concord among civilized peoples.

2. The establishment of this Organization on a universal basis of such a kind that every State, by reason of its being a State, would be a member of it, must be considered a final objective rather than a reality which can be achieved immediately. Only on this basis can the community of all peoples be established, with an appropriate structure and with means of controling the infractions of the norms accepted by all which may be committed by its members. And this would guarantee the fourth, the fifth, the sixth and the final principles of Chapter II. And the last part of paragraph 4 should be omitted in order that the principle of abstention from the use of force may be absolutely established.

3. If it is deemed expedient to centralize all Security functions and, at the same time, to endow the Security Council with executive powers, the Government of Costa Rica believes also that the General Assembly should be granted, on the suggestion of one of its

members and by a majority vote, the power to propose, at least, some measures aiming at the maintenance of peace and at rendering effective the principles agreed upon as the basis of the organization. This formula, included in the Covenant of the League of Nations, would permit all States to give expression to their wills and thoughts, subject to the criterion inherent in the majority of the General Assembly. This allotment of powers seems more advisable as far as the sanctions allowed are concerned. And let it be noted that the organism is thereby strengthened since all its component parts, which would otherwise lose interest in its functioning, would thus be able to act. Chapter V.

4. Concerning the establishment of the Security Council, it might be suggested that it would be expedient to grant to the States of the Americas another seat besides the one assigned to the United States. They represent indeed a group of nations that have maintained a resolute stand in favor of the standards of International justice; and one of them, Brazil, is already playing its full part on the battle-fields, in addition to co-operating in the task of supplying raw materials and foodstuffs. In recognition of its share in determining the outcome of the war, and on account of its vast territories and huge population, its political importance and its culture, this part of the continent constitutes a valuable asset to the new Organization and might be able to contribute, to its deliberations and decisions, elements of the spirit which are not to be minimized. It is therefore suggested that a permanent seat in the Council be assigned to one of the American Republics, in addition to the United States. Chapter VI.

5. Concerning the Court of Justice, the proposals follow the pattern of the League of Nations and merit approval. One might, however, consider the possibility that not only matters of a juridical nature, but all matters, even those of a political nature, which might affect general security and peace would fall within its jurisdiction; and one might also consider establishing regional courts in addition to the central Court, in order to facilitate access to judicial procedures. Chapter VII.

6. For the peaceful settling of disputes, the Proposals lead to the proper results. But it would be preferable to establish that the Security Council may demand of the parties to a dispute, and not merely call upon them to do it, that they settle their differences by peaceful means; and this would strengthen the Council's interventions in favor of peace. Paragraph 4, Section A, Chapter VIII.

7. World conscience will be fully satisfied with the powers granted to the organ in question to adopt means of material coercion in order to give effect to its decisions and maintain peace in the world. To resort to force, in such cases, does not mean waging war but preserving peace. Chapter VIII, Section B.

8. Concerning international co-operation in the solution of economic and social problems, it might be expedient to incorporate in the new Organization the International Labour Office established by the League of Nations in Geneva. Its work has continued and has moreover been effective and has gained the approval of all States. If the former organ of the League of Nations could be mentioned in the case of the Court of Justice, it would be just as proper, if not more proper, to do the same thing in the case of the International Labour Office. Chapter IX.

9. It would likewise be possible, in Chapter IX, to render more concretely the expression: "promote respect for human rights and fundamental freedoms". The propagation of ideas and principles whose objectives are these is of immense value to mankind; but surely if the word "promote" is understood as implying the ability to coerce States or to initiate within their borders some social movement, even with these objectives, not one of the states concerned will recognize this principle. It should therefore be stated more clearly that the functions of the organization, in this respect, must be purely cultural.

10. Amendments to the Statute of the Organization, by analogy with the standards generally accepted for particular collective bodies, might be adopted by a majority of two thirds.

11. Though the Proposals do not determine the number of votes needed for a proposal submitted to the Security Council to be adopted and made valid, it seems that all that could be done would be simply to establish for this purpose the rule of a majority of two thirds. One would thereby increase, thanks to a heavier backing, the proportion of votes that is generally required in public bodies as well as in private collective entities in order to adopt some constitutional amendment.

12. Recognition of regional arrangements is useful to the coordination of the various interests of States, in that it facilitates an understanding of those common aims which are founded especially on geographical position. Section C, Chapter VIII.

In general, Costa Rica backs, with complete loyalty, the proposals for the establishment of the projected International Organization, as it contains salutary innovations and improvements on all the efforts made in the past to maintain harmony among civilized peoples; and Costa Rica hopes that, with the co-operation of all governments, it will be possible to perfect the proposals and soon to initiate their application.

JOINT DRAFT AMENDMENT TO CHAPTER VIII, SECTION C, OF THE DUMBARTON OAKS PROPOSALS SUBMITTED BY THE DELEGATIONS OF CHILE, COLOMBIA, COSTA RICA, ECUADOR, AND PERU IS CONTAINED IN A SEPARATE DOCUMENT AT THE END OF THIS VOLUME.

May 11, 1945

TO: Recipients of the Bound Volume of Comments and Proposed Amendments Concerning the Dumbarton Oaks Proposals

FROM: Documents Distribution Section

SUBJECT: Substitution of Complete G/14(g)(1) for Portion of Cuban Paper now in Bound Volume

As noted in the Journal on May 10, Doc. 2, G/14(g)(1), Additional Proposals on the Dumbarton Oaks Proposals Submitted by the Delegation of Cuba, as issued on May 4 contained only part of the paper submitted by the Cuban Delegation. This partial paper appears in the bound volume of Comments. The complete paper, bearing the same document number, has now been produced.

Our records indicate that you received ____ copies of the bound volume of Comments. Attached are copies of the five-page, complete version of the Cuban Proposals. Please substitute these for the two-page portion of the paper that appears in the Comments and destroy the partial version.

The United Nations Conference on International Organization

Doc. 2 (ENGLISH)
G/14 (g)(1)
May 10, 1945

GENERAL

ADDITIONAL PROPOSALS ON THE DUMBARTON OAKS PROPOSALS SUBMITTED BY THE DELEGATION OF CUBA, MAY 3, 1945

The Delegation of Cuba submits to the Conference for its consideration the following:

DRAFT PROPOSAL ON AMENDMENTS TO SECTION A OF CHAPTER VI

WHEREAS:

1. It is advisable to increase the number of members of the Council to 15, in order that not only the delegates of the Great Powers may be represented on it, but also, in proportion, the representatives of the various regional civilizations and interests;

2. The Dumbarton Oaks Proposals, in establishing two categories of nations, some with the right to permanent seats on the Council and others without such right, create a difference contrary to the principle of juridical equality of all the states, a principle which has been and is one of the fundamental bases of international life;

3. Although it is proper to recognize the need that certain nations, owing to their greater power, form continuously part of the Council, for the latter's decisions will thereby have greater force and its action will be more effective, their seats on the Council should not be permanent, inasmuch as this would render the Charter too rigid, but rather subject indefinitely to re-election, and their selection should be made in conformity with a general rule and not with a mere individual enumeration;

4. The Council should properly be integrated;

(a) By seven states which have assumed special obligations for the maintenance of international peace and security and which have the necessary resources to fulfil such obligations, which states may be re-elected indefinitely in order to permit their continued cooperation in the Council;

(b) By eight states elected from among the remaining members of the Organization, which cannot be re-elected for a successive term, in order that the rotation may permit all states to participate in the functions of the Council.

5. This rule, in addition to eliminating the objection above set forth, for under it the distinction between members which are eligible for re-election and those not eligible is based on a general rule founded on solid reasons and not on a mere circumstantial and specific selection, has also the advantage that if the group of present Great Powers should change in the future, as has happened in the past, such changes can be recognized and accepted without the need of effecting an amendment of the Charter of the World Organization;

6. Notwithstanding the foregoing statements, and as an advisable and even necessary measure for the preliminary period during which the new Organization will inaugurate its functions, precisely in the difficult period of transition from war to peace, there should be designated now, through a transitory provision added to the Charter, the nations which are to occupy the seats subject to re-election and there should be included among them China, the United States, the United Kingdom of Great Britain and Northern Ireland and the Union of the Soviet Socialist Republics, in addition to others which it may be deemed advisable to select.

IT IS RESOLVED:

That Section A of Chapter VI be drafted as follows:

Section A. Composition.

1. The Council shall be composed of fifteen members, designated in the following manner:

ADDITIONAL PROPOSALS ON THE DUMBARTON OAKS PROPOSALS, SUBMITTED BY THE DELEGATION OF CUBA, MAY 3, 1945

The Cuban Delegation submits to the Conference, for its examination, the following:

DRAFT PROPOSAL CONCERNING AMENDMENTS TO SECTION C OF CHAPTER VI, PARAGRAPHS 2 AND 3

WHEREAS:

1.- Section C of Chapter VI, in establishing the regulations concerning voting within the Council, determines that its decisions should be made by the vote of seven members, including the concurring votes of the five permanent members, that is to say, all of the Powers that are termed Great;

2.- With this ruling, it becomes possible for a single one of the Great Powers to prevent any action of the Council, even when all its other members are in agreement, so that it is the same as if the rule of unanimity had been adopted, which had already given such unsatisfactory results in the workings of the League of Nations, without there being any obstacle to this in the fact that the Dumbarton Oaks Proposals determine that a State that is a party to a dispute must abstain from voting, since it may, without being a party to a dispute, yet be directly interested in it;

3.- One of the essential principles of democracy is the rule of the will of the majority, and if indeed in some cases it is necessary to demand that there be qualified majorities, in order to give more force to the decisions adopted, one should yet never come to requiring unanimity, because this entails that one vote has more actual power than the concurring votes of all the other members of the body concerned;

4.- If it is proper that the great powers, on account of their greater responsibility in the maintenance of peace,

should enjoy special privileges when it comes to making important decisions, they must yet conform, in their international dealings, with the principle of majority votes, and both these principles can be brought into agreement by determining that such decisions should be reached by a double voting procedure, that is to say by a majority vote of the group of Great Powers, on the one hand, and a majority vote of the other States that are members of the Council on the other hand; since, in this manner, the principle of the juridical equality of all Nations would be respected, the maintenance of which is indispensable to the harmonious development of international dealings, and at the same time a more sincere and cordial co-operation of the smaller powers would be obtained;

IT IS RESOLVED THAT:

Paragraphs 2 and 3 of Section C of Chapter VI of the Statutes of the new World Organization should be worded in the following manner:

2.- The Decisions of the Council should be made by an affirmative vote of two-thirds of its members, except for decisions of mere procedure, where a simple majority would be sufficient. In doubtful cases, the Council, by a vote of two-thirds of its members, will decide whether the matter on hand is or is not one of mere procedure.

3.- In matters concerning the maintenance of peace and international security, to which Chapter VIII refers, decisions must be made by a vote of two-thirds of the seven States mentioned in paragraph a) of subsection 1 of Section A of Chapter VI, and by a vote of two-thirds of the other members of the Council.

The United Nations Conference on International Organization

Doc. 2 (ENGLISH)
G/14 (g)
May 2, 1945

GENERAL

SEVEN PROPOSALS ON THE DUMBARTON OAKS PROPOSALS SUBMITTED BY THE DELEGATION OF CUBA

The Delegation of Cuba submits for consideration by the Conference the following:

DRAFT PROPOSAL FOR MODIFICATIONS IN THE PREAMBLE OF THE DUMBARTON OAKS PROPOSALS

WHEREAS: The designation of THE UNITED NATIONS, proposed as the name of the new International Organization in the Dumbarton Oaks Proposals, has a very definite and circumscribed historic meaning, including the Nations that have carried on, closely united, the war against the Axis, a meaning that merits perpetual remembrance and should not be confused with that of any other organization, no matter how important the latter may be; and whereas, moreover, the designation of THE UNITED NATIONS may be considered as not corresponding to the character of the institution which it is intended to establish because it lacks the idea of universality to which the said institution must aspire in future,

IT IS RESOLVED: That the new Organization be named the WORLD COMMUNITY OF NATIONS.

The Delegation of Cuba submits for consideration by the Conference the following:

DRAFT PROPOSAL FOR MODIFICATIONS IN CHAPTER I, PURPOSES

WHEREAS: When the purposes of the International Organization are set forth in the Dumbarton Oaks Proposals, an enumeration is made of them which may give the impression that they are limited and restrictive, since other aims of like nature, such as the promotion of justice in international relations, are excluded,

IT IS RESOLVED: That Chapter I of the Dumbarton Oaks Proposals be worded as follows:

Chapter I. Purposes

The purposes of the Organization shall be:

1. To maintain peace, and to promote international security and justice in the relations between states; and to that end to take effective collective measures for the prevention and removal of threats to the peace and the suppression of acts of aggression or other breaches of peace, and to bring about by peaceful means adjustment or settlement of international disputes which may lead to a breach of the peace.

2. To develop friendly relations among nations and to take other appropriate measures to strengthen universal peace and justice.

3. To develop cooperation among the states for the solution of international economic, social, and humanitarian problems.

4. To be a center for coordinating and insuring unity of action of the nations in the achievement of common international objectives.

5. The enumeration of the purposes stated above does not exclude others of a like nature that are derived from the ultimate aim of the Organization to maintain international peace and security and to promote and insure the collective well-being of the nations.

The Delegation of Cuba submits for consideration by the Conference the following:

DRAFT PROPOSAL FOR MODIFICATIONS IN CHAPTER II, PRINCIPLES

WHEREAS: To insure harmonious living together of the states, making possible universal peace and unlimited human progress, it is necessary, for one thing, for the states belonging to the Organization to conform their acts to principles of a general character, governing their mutual relations; and, for another

[illegible]

[illegible] placed on the [illegible]
[illegible] our fields [illegible]

thing, for the individual, as the primary value of society, to have guaranteed the international rights that are indispensable for his development and improvement, both of which principles should be established by the General Assembly, as the supreme and representative organ of the Organization,

IT IS RESOLVED: That Chapter II of the Dumbarton Oaks Proposals be worded as follows:

Chapter II. Principles

In pursuit of the purposes mentioned in Chapter I, the states which are members of the Organization shall conform their acts to the principles contained in the "Declaration of the Duties and Rights of Nations" and the "Declaration of the International Duties and Rights of the Individual", which the General Assembly shall adopt within the shortest possible time after it is constituted.

(The Delegation of Cuba submits herewith a "Draft Declaration of Duties and Rights of the Nations" and also a "Draft Declaration of International Duties and Rights of the Individual" (Annexes A and B), in order that they may serve as bases for complying with this precept).

Annex A

WHEREAS: 1. The essential identity of the democratic forms of government and the common ideals of peace and justice of the nations, manifested in the war and in the different treaties and declarations subscribed to, have come to constitute an international system favoring the maintenance of peace, the proscription of war, the harmonious development of their economy and their aspirations in all fields of political, social, scientific, and cultural activities;

2. The existence of human interests above the individual interests of each state requires the maintenance of solidarity in principles as a foundation of inter-related living of each and all the nations;

3. For the maintenance of world peace it is indispensable that there should be a moral union of all democratic nations of the world, in the defense

of their common interests, on the basis of perfect equality and reciprocal respect for their rights to self-government, independence, and free development, calling for proclamation of basic principles of international law;

4. The drafting and development of international law, as initiated by the international conferences, which shall continue steadily in the course of generations, must have as their basis the recognition of the fundamental duties and rights of the states which constitute the World Community of Nations;

5. The declaration of these duties and rights and the great principles from which they are derived will serve as a guide in the maintenance of international peace and security and a basis for all the agreements that may be concluded in accordance with international practice and the enforcement and codification of international law.

The General Assembly of the International Organization therefore agrees to adopt the following:

Declaration of the Rights and Duties of the Nations

I. Every state has the right to exist, to protect and maintain its existence. This right does not imply the right to or justify any action by a state to protect or maintain its existence by committing illegal acts against innocent states or states which are not aggressors.

The political existence of a state is independent of its recognition by the other states. A state has the right, even before recognition, to defend its integrity and independence, to provide for its maintenance and prosperity, to organize itself as it sees fit, to legislate on its interests, to administer its services, and to determine the jurisdiction and qualification of its courts.

The exercise of these rights has no other limits than respect for the rights of other states, in conformity with international law.

II. Every state has the right to independence, to secure its well-being and its free development without interference by other states, provided that

in the pursuit of those objectives it does not violate or infringe upon the rights of other states.

Therefore direct or indirect intervention by a state in the internal or external affairs of another state for any reason whatever is inadmissible.

III. All states are equal before the law, and each one has the same rights as any other which is a member of the International Community. In the same way, all states have the right to claim and to assume, among the powers of the world, the equal and independent position to which they are entitled by natural and divine laws.

IV. Every state has the right to the territory included within defined frontiers and the right to exercise exclusive jurisdiction over that territory and over all persons thereon, whether native or aliens.

This right (after adequate measures with respect to aggressor nations have been adopted, to prevent the recurrence of aggression, and after the peace treaties have been concluded that result from World War II) involves the duty of not recognizing the validity and the juridical effects of the acquisitions of territories, adjustments of frontiers, or special advantages obtained by conquest or by force, whether through recourse to arms, threatening diplomatic representations, or any other means of effective coercion. The territory of the states is inviolable and cannot be the object of military occupation or any other measures of force imposed by another state, directly or indirectly, for any reason whatever, not even temporarily.

V. No state has the right to intervene before another state in favor of its nationals, except through diplomatic channels, in a considered and courteous manner. In the event of a claim that the administrative authorities of the state in which an alien is residing have prevented him materially from exercising his rights before the courts of justice, or if it is proved that these courts have denied him justice, the procedure for peaceful settlement of international conflicts must be followed.

VI. All states have the right to access, on equal terms, to the trade, the markets, and the raw materials of the world needed for their economic prosperity.

The economic independence of the nations requires the elimination from their activities in this regard of all artificial measures leading to discrimination against the natural or spontaneous products of the soil of another state, to control of the means of transportation, to restriction of reciprocal trade, or to contraction of commercial credit or of the foreign exchange of another country.

The principle of economic reciprocity is the foundation of and the guide to world solidarity.

VII. A state to which a right has been granted by international law may demand that this right be supported and protected by all other states. The right and the duty are correlative, and upon all there rests the obligation to respect the right of each and to perform the duties devolving upon them.

The rights of each state are not dependent upon the power available to the state to enable it to exercise its rights, but depend on the mere existence of such rights as provided for by international law. The fundamental rights of the states cannot be affected in any way.

VIII. The nations belonging to the Organization condemn war as an instrument of international action.

Any differences or disputes between the nations, whatever their nature and whatever their origin, shall obligatorily be settled by conciliation, arbitration, or international justice.

IX. The nations belonging to the Organization proclaim the need for accepting the decisions of the latter through the acceptance of the agreements of the majority, the unqualified respect for the individual national sovereignties, and the solidarity among all peoples of the world, and affirm their decision to maintain and defend these principles against any foreign intervention or activity which might endanger them.

X. Every state has the duty to employ all the spiritual and material means at its disposal in order

to maintain and strengthen peace, harmony, and trade among all the nations of the world, as indispensable requisites for the effective discharge of the duty which rests upon them in the universal historic process of civilization and culture.

Annex B

WHEREAS: 1. The juridical consciousness of the civilized world requires recognition, in favor of the individual, of rights that shall be safe from injury on the part of the state;

2. The Declarations of Rights contained in a number of constitutions, and especially in the American and the French Constitutions of the end of the Eighteenth Century and in the German Constitution of 1919, were not instituted for the citizen alone but for the individual as well;

3. The fourteenth amendment to the Constitution of the United States provides that no state shall deprive any person of life, liberty, or property without due recourse of law, and shall not deny any person, whoever he may be, equal protection of the laws within its jurisdiction;

4. The Supreme Court of the United States has decided unanimously that in accordance with the terms of the said amendment it is applicable, within the jurisdiction of the United States, "to all persons, regardless of any difference of race or color or of nationality; and that the equal protection of the laws is a pledge of the protection of equal laws".

5. The constitutions of progressive republics almost all of them contain those same principles of equality and protection for individual activities;

6. There exist sundry treaties that provide for recognition of the rights of the individual;

7. It is important to extend to the whole world international recognition of the rights of man;

The General Assembly of the International Organization agrees to adopt the following:

Declaration of the International Rights and Duties of the Individual

I. All men are equal before the law and in all the circumstances of life.

No state shall recognize any personal exemptions or privileges nor shall it allow any discrimination due to sex, race, religion, color, language, class, or on any other ground whatsoever; and every state shall guarantee absolute equality of opportunity, in the exercise of the different economic, professional, or industrial activities.

Laws shall provide penalties for infringers of this precept.

II. Every individual shall be entitled to citizenship somewhere. Whenever he shall have lost it under the law of his own country or it shall be denied him in his country of origin, he shall be entitled to obtain that of the state wherein he resides, after prior compliance with the requirements of the laws.

III. Every individual shall be entitled to security for his person, papers, and effects to the same degree as the nationals of the country in which he lives.

IV. Every individual shall enjoy the same civil rights as are established by the laws for nationals, except those which under personal status, correspond to aliens, and more especially the following political and economic rights:

a) The inviolability of property, so that no one may be deprived of his domicile or other patrimonial right whatsoever, except pursuant to a judgment publicly rendered in a court, legally proved, and in consideration of just compensation.

b) Liberty to enter, stay in, and leave any part of the territory, provided that he obey the local laws and police regulations, without prejudice to the provisions of the immigration laws or to the right of expulsion.

c) Liberty to profess any religion which he may freely choose and to practice its worship without any

limitation other than respect for public order and good morals.

d) Liberty to express his ideas and opinions freely, by availing himself of any means of diffusion, provided that no injury be done to the honor of persons, to the social order, or to the public peace.

e) Freedom of commerce, navigation, and industry, provided that the laws of the state be obeyed and saving only such exceptions as may be required for reasons of public safety.

f) Freedom to present petitions to the authorities in search of redress for any damages sustained.

g) Freedom to assemble peacefully and without arms, and to associate with others for all lawful ends in life.

V. Every individual shall have the same social rights as are established for nationals, with reservations as to reciprocity or the public safety, and especially:

a) The right to work usefully and constructively in productive years.

b) The right to reasonable remuneration that shall be adequate to satisfy the needs and amenities of life in exchange for his work, ideas, savings, and other valuable social services.

c) The right to adequate food, clothing, housing, and medical attendance.

d) The right to peace of mind, free from the fear of old age, penury, dependence, illness, unemployment, and accident.

e) The right to live under a system of free enterprise, free from forced labor, from irresponsible private powers, from arbitrary public authorities, and from unregulated monopolies.

f) The right to education to fit him for work to be a useful citizen and for his personal advancement and happiness, and

g) The right to rest, recreation, adventure, and opportunity to enjoy life and to take part in the progress of civilization.

VI. Every individual is entitled to be tried by courts recognized as competent under the laws of the state of his residence, and established prior to the act he is charged with. No one shall be sentenced, except by due process of law and by virtue of a statute proclaimed prior to the act imputed to him.

VII. Every individual is entitled to be protected and assisted by the state to which he belongs, in the manner and form established by treaties and by international law. No individual who, according to the law of the state against which he institutes a claim, as a citizen of that state, shall be entitled to such protection.

VIII. Every individual shall have the right of asylum in legations and to the protection of the diplomatic representatives of any nation, in the cases and by the procedure established by treaties or by international law.

IX. Every individual shall be obliged to contribute to the public expenses of the country in which he lives and to serve it in cases of need in the manner provided by the laws.

X. No alien may interfere either directly or indirectly in the politics of the country in which he happens to be, nor claim the enjoyment of any rights or any assertion of such rights other than those provided for nationals by the Constitution and the laws.

XI. Aliens shall be obliged to respect the political, social, and economic regime prevailing in the state in which they reside, to observe and obey the laws and other provisions in force therein, and to submit to the jurisdiction and decisions of its government authorities and of its courts of justice.

The Delegation of Cuba submits for consideration by the Conference the following:

DRAFT PROPOSAL ON THE USE OF THE SPANISH LANGUAGE IN THE INTERNATIONAL ORGANIZATION

WHEREAS: The number of American republics the language of which is Spanish and which will be members of the International Organization amounts to eighteen, a number in excess of any other number of nations using the same language as their national language,

IT IS RESOLVED: The official languages of the international organization shall be English, French, and Spanish.

The Delegation of Cuba submits for consideration by the Conference the following:

DRAFT PROPOSAL FOR THE ADDITION OF CERTAIN PRECEPTS TO THE STATUTE OF THE PERMANENT INTERNATIONAL COURT OF JUSTICE

WHEREAS: 1. The future world Organization, to attain its high objectives of maintaining the peace, promoting cooperation among nations and furthering the betterment of mankind, must necessarily be based on practice, the only thing that can guarantee peaceful relationships among peoples;

2. The highest manifestation in international public life is the solution of controversies between nations by the Permanent International Court of Justice, and the consequent observance of its decisions by those who may have been parties to the dispute;

3. Although it is true that the decisions rendered by the present Permanent International Court of Justice of the League of Nations were duly complied with, provision should be made for the possibility that in the future some litigant may refuse to obey a judgment rendered against it, just as was done in paragraph 4, article 13, of the Covenant of the said League;

4. Neither the Dumbarton Oaks Proposals nor the Court Statute drawn up by the Committee of Jurists which met in Washington, April 9 to 20, 1945, contains any provision regulating the measures to be adopted in the event that one of the parties affected by a decision refuses to comply with it; but the said Committee agreed to

call the attention of the San Francisco Conference to this problem and to recommend that it be solved adequately;

5. Although it is true that an appropriate provision can be inserted in the Charter of the Organization or in the Statute of the Court, inasmuch as the latter admits the possibility that there may be states which accept the jurisdiction of the Court without being members of the Organization, it appears advisable to include them under the Statute of the Court in order that it may also be applied to such states;

IT IS RESOLVED: To amend the Statute of the Permanent International Court of Justice by adding the following provisions:

Chapter ___. Execution of Judgments

1. The members of the Organization and the states which subscribe to this Statute bind themselves to perform faithfully and in good faith the judgments or decisions rendered by the Court.

2. In case of total or partial failure to perform a judgment or decision rendered by the Court, the party concerned may appeal to the Security Council, and the latter shall adopt the necessary measures to insure the execution and effectiveness of the said judgment or decision.

The Delegation of Cuba submits for the consideration of the Conference the following:

DRAFT PROPOSAL ON THE CREATION OF THE COUNCIL ON INTELLECTUAL COOPERATION

WHEREAS: 1. The Dumbarton Oaks Proposals establish the political organs of the new World Organization (General Assembly and Security Council), the judicial organ (International Court of Justice), and that in charge of the material interests of mankind (Economic and Social Council), but omits any that would care for the moral and intellectual interests of the future;

2. The success of the new World Organization will depend in large part on all nations rendering it sincere

and cordial cooperation based on the conviction that it is the best guaranty of peace and progress, something that cannot be attained without making provision for having the leaders of thought of each country work intensively, by means of close intellectual cooperation, at creating, strengthening, and diffusing everywhere that indispensable international spirit;

3. The present conflict has demonstrated that there cannot be a world of peace, either in economic or political affairs, unless there is at the same time a world firmly bound together by the deep mutual understanding of peoples, which permits the organization of the moral conscience of all mankind, since, as has already been proclaimed, "an association of nations is an association of minds";

4. One valuable lesson of the present war has been that nowadays martial enterprises are not restricted to the clash of armies, but that the masses of civilians of every population participate in them, actively and essentially, for which reason their agreement and firm support must be had; and, besides, the triumph has been the product of the close collaboration of the United Nations; and such lessons must be utilized for the organization of peace and for causing this peace to be based more and more on the mutual understanding between peoples, and not on the sole sway of force;

5. The creation of a Council for Intellectual Cooperation and Moral Interests would contribute powerfully to the attainment of that end. This Council, by means of the joint action of the great mentalities of each country, directors of the corresponding national consciences, would accomplish that work of rapprochement and understanding, and would provide for the great moral interests of mankind, to protect them and better them;

6. The Inter-American Conference on Problems of War and Peace, held in Mexico City during this present year of 1945, unanimously agreed to recommend to this San Francisco United Nations Conference the creation of "an international organ specially charged with promoting the intellectual and moral cooperation among nations", and in view of the importance which in the future of the world both the Economic and Social Council and the Council on Intellectual Cooperation and Moral Interests are bound to have, they ought to be considered

as organs of the new World Organization and to be enumerated in Chapter IV of the Statute, a new chapter being added to the latter, fixing the functions of the Council the creation of which is proposed.

IT IS RESOLVED: I.- That Chapter IV be worded as follows:

Chapter IV.--Organs

1. The World Organization shall operate by means of the following:

    a) A General Assembly
    b) A Council
    c) An International Court of Justice
    d) An Economic and Social Council
    e) A Council for Economic Cooperation and Moral Interests
    f) A Security Council
    g) A General Secretariat

2. The Organization will also be provided with all necessary branches and also whatever technical organs it may consider it expedient to set up.

II. That, to the Statute of Organization, a new Chapter be added, worded as follows:

Chapter IX-b.--Provisions concerning Intellectual Cooperation and the Defense of Moral Interests

SECTION A.--AIMS

1. In order to create a favorable atmosphere for the promotion of international understanding, so that the political, economic, and social organs of the Organization will be able to achieve their objectives, the World Organization must facilitate intellectual exchanges and cooperation, and seek to solve humanitarian, philanthropical, and progressive problems by promoting respect for the lofty values of humanity.

2. The task of achieving these ends shall be entrusted to the Council for Intellectual Cooperation and Moral Interests, which will function under the authority of the General Assembly.

3. The various organizations and bodies devoted to intellectual cooperation and the defense of the moral values of humanity will be entrusted, each in its own field, with responsibilities which will be formulated in their statutes. Relations established between them and the World Organization shall be patterned on the terms of the agreement which they will sign with the Council for Intellectual Cooperation and Moral Interests, subject to approval of the General Assembly.

SECTION B.--COMPOSITION AND VOTING

The Council for Intellectual Cooperation and Moral Interests shall be composed of representatives of eighteen members of the Organization, elected to it by the General Assembly for a period of three years, one third of the members of the Council retiring each year. In the first election six members shall be elected for one year, six for two years, and six for three. Each member will be entitled to one vote, and the Council's decisions will be reached by a simple majority vote of the members present at the session.

SECTION C.--FUNCTIONS

The Council for Intellectual Cooperation and Moral Interests shall have the following duties:

a) To promote, organize, and initiate intellectual cooperation among Nations, in order to achieve as close an understanding between them as possible and a better knowledge of each other, so as to bring about mutual understanding and an international spirit in its loftiest form.

b) To implement, within the scope of its special functions, recommendations made to it by the General Assembly and, on

its own initiative, to submit to the latter whatever recommendations it may consider opportune in the field of intellectual cooperation and the defense and promotion of the moral interests of humanity.

c) To receive and examine reports from organizations or bodies whose activities are connected with the aims of the Council and which maintain relations with the Organization, and to coordinate their activities by means of conferences and recommendations.

d) To examine the budgets of these organizations or entities in order to submit recommendations for their consideration.

e) To provide the General Secretary of the Organization with the information which he in turn may need to inform the Security Council.

f) To assist the Security Council when the latter may request such assistance.

g) To discharge any additional functions, within the limits of its competence, which the General Assembly may assign to it.

SECTION D.--ORGANIZATION AND PROCEDURE

1. The Council for Intellectual Cooperation and Moral Interests shall determine its own organizational methods and procedure, and to this effect, may establish the sections or subcommittees which it may consider expedient, determining the functions of each of these. It may also organize its own offices and branches.

2. The Council for Intellectual Cooperation and Moral Interests shall adopt its own rules of procedure, in which it will determine the manner of electing its chairman and other officers.

The Delegation of Cuba submits for the consideration of the Conference the following:

DRAFT PROPOSAL CONCERNING THE INCORPORATION WITHIN THE INTERNATIONAL ORGANIZATION OF TECHNICAL ORGANS AND OFFICES OF THE LEAGUE OF NATIONS

WHEREAS: Various technical organs and other offices of the League of Nations have proven over a number of years their ability and capacity most effectively in the achievement of the highly technical and specialized tasks that had been entrusted to them, and whereas it would be most useful that the experience accumulated by these organs and offices be made available to the international organization to be founded by the Conference of San Francisco, by introducing into the above-mentioned technical organs and offices whatever modifications may be considered expedient or necessary,

IT IS RESOLVED: That the technical organs and offices of the League of Nations which can be incorporated within the International Organization be made an integral part of the latter, which shall use whatever means are necessary and expedient to adapt them adequately to the new purposes that will be attributed to them.

The United Nations Conference on International Organization

Doc. 2 (ENGLISH)
G/14 (g) (1)
May 4, 1945

GENERAL

ADDITIONAL PROPOSALS ON THE DUMBARTON OAKS PROPOSALS, SUBMITTED BY THE DELEGATION OF CUBA, MAY 3, 1945

The Cuban Delegation submits to the Conference, for its examination, the following:

DRAFT PROPOSAL CONCERNING AMENDMENTS TO SECTION C OF CHAPTER VI, PARAGRAPHS 2 AND 3

WHEREAS:

1.- Section C of Chapter VI, in establishing the regulations concerning voting within the Council, determines that its decisions should be made by the vote of seven members, including the concurring votes of the five permanent members, that is to say, all of the Powers that are termed Great;

2.- With this ruling, it becomes possible for a single one of the Great Powers to prevent any action of the Council, even when all its other members are in agreement, so that it is the same as if the rule of unanimity had been adopted, which had already given such unsatisfactory results in the workings of the League of Nations, without there being any obstacle to this in the fact that the Dumbarton Oaks Proposals determine that a State that is a party to a dispute must abstain from voting, since it may, without being a party to a dispute, yet be directly interested in it;

3.- One of the essential principles of democracy is the rule of the will of the majority, and if indeed in some cases it is necessary to demand that there be qualified majorities, in order to give more force to the decisions adopted, one should yet never come to requiring unanimity, because this entails that one vote has more actual power than the concurring votes of all the other members of the body concerned;

4.- If it is proper that the great powers, on account of their greater responsibility in the maintenance of peace,

The United Nations Conference on International Organization

Doc. 2 (ENGLISH)
G/14(g) (2)
May 7, 1945

GENERAL

DRAFT STATUTE OF THE COURT OF INTERNATIONAL JUSTICE SUBMITTED BY THE DELEGATION OF CUBA TO THE UNITED NATIONS CONFERENCE.

One of the most important tasks entrusted to the San Francisco Conference is the organization of the Court of International Justice, which is to settle, under juridical norms, the differences arising between States.

The Commission of Jurists which met at Washington, D.C., from April 9 to 20 last, has prepared a draft Statute for the said Court, thus complementing the Dumbarton Oaks Proposals.

That draft is to be submitted to the United Nations Conference for discussion, modification, if necessary, and final approval. On this occasion, and as a contribution to such an important work, the Delegation of Cuba takes pleasure in submitting a draft on the same subject, the author of which is Doctor Antonio Sánchez de Bustamante, an eminent jurist of world renown, who has been professor of International Law in the University of Habana for many years, and has extensive personal experience in this connection, having been a judge of the present Permanent Court of International Justice since its establishment in 1920.

The Delegation of Cuba considers that Doctor Bustamante's draft is a valuable contribution to the work of the Conference, for which reason it has not hesitated to submit it to the Conference for consideration.

. . . .

The said draft is the following:

DRAFT STATUTE FOR THE ORGANIZATION AND FUNCTIONS OF A NEW PERMANENT COURT OF INTERNATIONAL JUSTICE.

Art. 1.- In addition to the Court of Arbitration organized by conventions of The Hague of 1899 and 1907, and to the special Courts of Arbitration, whether or not provided for in agreements in force, to which parties are always at liberty to submit their disputes for settlement, the Permanent Court of International Justice shall continue to function in accordance with the provisions and changes established below.

CHAPTER I

ORGANIZATION OF THE COURT

Art. 2.- The Permanent Court of International Justice shall be composed of a body of independent judges, elected from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in International Law.

Art. 3.- The Court shall consist of two Chambers, each with nine judges. The minimum quorum shall be five.

Art. 4.- One of the Chambers shall ordinarily function at The Hague, The Netherlands, and the other at Habana, Republic of Cuba. Either of the Chambers may take up its work, even though the other has not done so.

Art. 5.- The Chamber at The Hague shall have jurisdiction over questions arising between European, Asiatic, African and Oceanic States.

Art. 6.- The Chamber at Habana shall have jurisdiction over questions arising between States of the Americas.

Art. 7.- When States of the Americas and States of other continents are parties to a given case, a third Chamber shall be constituted to consider or decide on it, composed of four judges designated by the Chamber at The Hague, four others designated by the Chamber at Habana, and a President designated according to article 8.

Art. 8.- The third Chamber shall be presided over by the acting President of one of the other two Chambers, who shall be designated by lot in the first case which comes up, and after after that they shall each serve in turn. The above-mentioned drawing of lots shall be performed by the President of the Supreme Court of Cuba, at a public session duly convoked for the purpose, and the result thereof shall be made known at once to both Chambers, through their Presidents, and to the States concerned.

Art. 9.- The said third Chamber shall function at the place where ordinarily functions the Chamber from which its President has been designated.

Art. 10.- Each of the Chambers of The Hague and of Habana shall designate from among their number by secret ballot the judges who are to belong to the third Chamber.

Art. 11.- The election of the judges of the two Chambers of The Hague and Habana shall take place in the following way:

The President of the Supreme Court of each of the member States shall draw up a list of nine judges for the Chamber to which that country belongs and shall send it in a closed and sealed envelope to the President of the Supreme Court of the State in which the said Chamber is to act.

The Presidents of the Supreme Court of The Hague and of that of Habana shall likewise draw up their lists in closed and sealed envelopes which they shall keep in their possession.

In the said lists there shall not appear the name of more than one candidate of the nationality of the magistrate who draws up the list.

Art. 12.- The said envelopes shall be in the possession of the President of the corresponding Court three months prior to the date which he has set for the election.

Art. 13.- On that date, the President of the Supreme Court concerned shall proceed to open and read the lists at a public session.

Art. 14.- The President shall declare elected the new candidates who have obtained the highest number of votes subject to the regulations stated in detail hereinafter.

Art. 15.- Not more than one national of each State under the jurisdiction of a given Chamber may form part of that Chamber. If two or more from one State have obtained the same number of votes, the one who is to be considered elected shall be designated by lot.

Art. 16.- In case of a tie vote for other positions as judges of the Court, all those shall be considered elected who have a greater number of votes than the rest. When only one position is to be filled under these circumstances, the decision shall be made by drawing lots.

Art. 17.- When the Chamber has been completed, it shall be established on the day and at the hour designated for the purpose by the corresponding Supreme Court President, who shall preside over the session and shall have the President of the Chamber elected by secret ballot from among the judges who have been elected.

Art. 18.- The judges elected, upon taking their posts, shall promise to perform their duties faithfully and loyally. Anyone who should not be present on the first day of the establishment of the Chamber, shall take this pledge before the President of the Chamber.

Art. 19.- The judges of the Court shall be elected for ten years and shall be eligible for reelection. If the election has been held in order to fill one or more vacancies and not all places on the Court, the magistrate elected shall hold the appointment for the remainder of his predecessor's term.

Art. 20.- The judges of the Court can not be removed from their positions except by an unanimous resolution, with statement of reasons by the other judges of the same Chamber.

Art. 21.- Each Chamber shall elect its President and its Vice President for nine years and shall fill those positions in case of vacancies.

Art. 22.- Each Chamber shall also designate its Secretary and, on the recommendation of the latter, the personnel of the Secretariat.

Art. 23.- The Chambers shall remain permanently in session except during the judicial vacations, which shall be in the summer and shall last for three months.

Art. 24.- When a judge considers that he should not take part in the decision of a particular case, he shall so inform the President, in order that the latter may decide.

He may, on his part, order any judge not to sit in a particular case, either on his own initiative or at the request of either of the parties.

Art. 25.- Judges of the nationality of any of the parties to a case may take part in the decision of the case; but the other party shall have the right, if there should not be in the Chamber any member of his nationality, to designate a judge "ad hoc". When several States make common cause, they shall be considered for the above purpose as one single party.

Art. 26.- Permanent members of the Court shall receive the same maximum annual pay as has been received by the judges of The Hague Court. The same shall apply to the President of each Chamber, who shall also enjoy a special allowance. When the Vice President takes the place of the President, he shall be paid such allowance for every day on which he performs his duties. Each Chamber shall fix the pay of its Secretaries and other employees.

Art. 27.- The total expenditures of each permanent Chamber, including those for supplies and printing, shall be calculated in advance by the Chamber for each year. This total shall be divided into as many equal parts as there are member States, and the collection thereof shall be the responsibility of the President of each Chamber, without prejudice to the utilization of the Pan American Union in the case of the Habana Chamber.

Art. 28.- The expenses of the third Chamber, when it is to meet, shall be paid in equal parts by the litigant parties.

CHAPTER II

COMPETENCE OF THE COURT

Art. 29.- Only States or Dominions can be parties in cases before the Chambers of the Court.
Art. 30.- The competence of each Chamber comprises all disputes arising between States to which this Statute applies, provided that they have not been able to settle them through diplomatic channels, or unless under agreements or conventions in force between the said States, they must be settled otherwise.

Art. 31.- The Chambers shall apply:
1) The general or special international agreements establishing regulations expressly recognized by the States in litigation.

2) International usage.

3) The general principles of law recognized by civilized States.

4) The rules of International Law; there shall be used to establish them, judicial decisions of an international character and the teachings of the most highly qualified publicists.

CHAPTER III

PROCEDURE

Art. 32.- The official languages for the Chamber at The Hague shall be French and English, and for the Chamber at Habana, Spanish, English, Portuguese and French.

Art. 33.- The Chambers may, at the request of any party, authorize the use of any language not included in the preceding article; but the party which uses such language must submit a translation, which shall be considered authentic for all purposes, of the documents and papers which it submits to the Chamber, into one of the said languages, and the same with respect to the oral statements, which in any event shall be taken down by stenography.

Art. 34.- The procedure shall consist of two parts, written and oral.

The written procedure includes memorials, counter-memorials, replies and rejoinders, as well as all testimony submitted in support.

A certified copy of each document in the written procedure which is submitted to the Secretary of the Court shall be communicated to the other party or parties by the said Secretary.

The oral proceedings shall consist of the hearing by the Court of witnesses and experts of the parties and their counsels.

Art. 35.- The party which first submits to the Court a question at issue with another State shall be considered the plaintiff.

If the two parties should come into Court at the same time or should give notice of intent to do so in a document

written by both, and if they should not determine which one is to be the applicant, the Court shall decide by drawing lots.

Art. 36.- The memorial, which shall contain a statement of the facts and the legal basis, shall be accompanied by the evidence secured in advance by the applicant.

Art. 37.- The case shall be followed by the reply by the other party, who shall likewise send with it the evidence secured in advance, which shall be communicated in the same form to the applicant.

Art. 38.- The documents mentioned in the preceding articles shall be followed by a reply by the applicant and a rejoinder by the respondent, which may likewise be accompanied by evidence secured in advance and which shall be communicated in the same form.

In these last two documents the parties shall propose the oral evidence which is to be submitted to the Court.

Any exception calling for delay shall be the object of discussion likewise in the documents of reply and rejoinder.

When the written procedure, the first part, has been terminated in this way, the oral procedure shall be taken up for such period as the Court indicates, and within that period there should be heard first the witnesses and experts, under the regulations to be established on this point by each Chamber.

Art. 39.- At the hearing which shall be designated after the evidence has been concluded and the period therefor has expired, the agents for the parties may speak in the same order indicated above, and each of them may speak for a second time after the other.

Art. 40.- When the oral proceedings have been terminated the Court shall declare the matter concluded and ready for decision.

Art. 41. The public arguments shall be directed by the President of the Chamber.

Art. 42.- Hearings are public, unless the Court decides to the contrary or unless the two parties so request.

Art. 43.- A minute shall be drafted for each oral hearing which shall be signed by the Secretary and the President of the Chamber.

Art. 44.- The Court shall issue rules for the direction and procedure and shall take the measures necessitated by the admission of evidence. The Court shall have the power to order ex officio the submission of such evidence as it deems proper.

Art. 45.- The decision shall be rendered by a majority vote. In case of a tie vote, it shall be decided by the vote of the President of the Chamber.

Art. 46.- A statement of the grounds for the decision shall be given and the names of the judges who have participated therein shall be stated.

Art. 47.- If the decision does not contain wholly or in part the unanimous opinion of the judges, the dissenting judges have a right to have their votes placed on record, and also have the right to formulate separate opinions.

Art. 48.- The decision shall be signed by the President and by the Secretary of the Chamber and shall be read in a public hearing, which the agents for the parties must be notified to attend.

Art. 49.- The decision of the Court is not binding except on the parties to the case and for the case which has been decided.

Art. 50.- There is no recourse from a decision, but the Court may interpret it by an order at the application of either of the parties.

Art. 51.- If the Court has not decided otherwise, each party shall pay its costs in the case.

CHAPTER IV

EXECUTION OF THE JUDGMENTS

Art. 52.- The States to which the present Statute applies undertake to fulfill faithfully the decisions of the respective Chambers.

Art. 53.- In case of non-compliance the Chamber may, upon request of one party, address the other States capable of

appearing before it, in order that whatever measures of a commercial and economic character are necessary, may be adopted with respect to the State which does not comply.

It may also notify the other Chamber, so that it may make the same request of the States over the cases of which it has jurisdiction.

Art. 54.- If the procedure established in the preceding article should not result in the execution of the judgment the Chamber may request of the States under its jurisdiction the military contingents necessary for the said execution, which shall be led by the State interested therein.

CHAPTER V

GENERAL PROVISIONS

Art. 55.- Each Chamber shall draw up regulations setting forth in detail the provisions of this Statute which so require. The said regulations shall be available to all States under the jurisdiction of the Chamber preparing them, and may be amended by that Chamber whenever this is considered opportune or advisable.

Art. 56.- The third Chamber shall also establish its own regulations when it meets for the first time, under the conditions laid down for the other Chambers in the preceding article.

The United Nations Conference on International Organization

Doc. 2 (ENGLISH)
G/14 (g) (3)
May 6, 1945

GENERAL

ADDITIONAL CUBAN PROPOSALS ON THE DUMBARTON OAKS PROPOSALS

The Cuban Delegation submits to the Conference, for its consideration, the following:

PROPOSED ADDITIONS TO SECTION C OF CHAPTER VIII

WHEREAS:

1.- The Dumbarton Oaks Proposals (Chapter VIII, Section C) recognize that it will be advisable to promote regional arrangements or agencies "for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided such arrangements or agencies and their activities are consistent with the purposes and principles of the Organization"; and provides that "the Security Council should encourage the settlement of local disputes through such regional arrangements or by such regional agencies, either on the initiative of the states concerned or by reference from the Security Council".

2.- These provisions wisely aim at the settlement of local matters by integrated organs which may have a more intimate and complete understanding of the problems involved and may therefore reach a settlement which would be more equitable and adequate to the maintenance of peace.

3.- The purpose of these measures is, however, to prevent, as far as possible, any dispute which initially and fundamentally concerns only local interests, from assuming the proportions of a world conflict as a result of the premature intervention of nations which are strangers to it;

IT IS RESOLVED:

To add to Section C of Chapter VIII the following paragraphs:

4. The fundamental principles on which any regional arrangement is based must be approved by the General Assembly, which cannot refuse its approval except in cases where the said principles are contrary to the norms of the present Statute.

5.- The proper organs under a regional arrangement, once its principles have been approved by the Assembly, shall be deemed competent to settle disputes arising between members of the said regional system. To this end, they may choose, according to the procedures of the arrangement, whatever means they may consider most adequate in order to reach a settlement. The Security Council shall intervene in regional matters only when the regional organs request it, or when the dispute threatens to spread to Nations which are not parties to the arrangement. When disagreements occur between regional organs and the Security Council concerning whether the latter should or should not intervene, the matter shall be submitted without delay to the General Assembly for a conclusive settlement.

6.- The Inter-American system is, from now on, recognized as one of the regional arrangements to which this section refers.

The Cuban Delegation.

The Cuban Delegation submits to the Conference, for its consideration, the following:

PROPOSED ADDITIONS TO THE STATUTE OF THE WORLD ORGANIZATION

WHEREAS:

1.- In view of the aims pursued in setting up a World Organization, to ensure world peace and security by means of the open co-operation of all Nations, a general rule in all future relations must be the complete elimination of all secret treaties such as those whereby, in the past, military alliances were generally formed and which would now have no reason to exist, if the new Organization is to fulfill its functions and if its members are to offer it their sincere support;

2.- It must meanwhile be the rule that all treaties which members of the Organization may sign among themselves must be registered with its General Secretariat, failing which they would not be valid;

3.- The Covenant of the old League of Nations contained, in its Article 18, a provision concerning this matter, but its injunctions remained ineffectual because no provision was made for cases where the prohibition was disregarded;

IT IS RESOLVED:

That the following article be added to the Statute of the new World Organization:

"Every treaty or international agreement, whatever its nature, to which any member of the Organization may in future be a party must be immediately registered with the Secretariat and published at the earliest possible date. Its registration shall be made at the request of any one of the contracting parties.

"If it is brought to the attention of the Security Council that any international treaty or agreement has been signed by any member of the Organization and has not been submitted for registration to the General Secretariat, the said member or members shall be requested to comply with the obligations established in the preceding paragraph and a period shall be fixed within which the said treaty or agreement must be registered.

"At the same time, it must be agreed, if it is considered proper or necessary, what sanctions are to be applied to those who fail to comply."

The Cuban Delegation.

The United Nations Conference on International Organization

RESTRICTED
Doc. 2 (English)
G/14(b)
May 1, 1945

GENERAL

Observations of the Czechoslovak Government on the Dumbarton Oaks Proposals

---

The Government of the Czechoslovak Republic is in full agreement with the statement of the Crimea Conference that the earliest possible establishment of a general international organization for the maintenance of peace and security is essential, both to prevent aggression and to remove the political, economic, and social causes of war through the close and continuing collaboration of all peace-loving peoples. The Dumbarton Oaks Proposals certainly constitute an excellent basis for the deliberations of the forthcoming San Francisco Conference; and the Czechoslovak Government expresses its heartiest thanks to the Powers whose representatives have accomplished such valuable preparatory work. These Proposals, together with observations and suggestions presented by other Governments, will enable the Conference to deal thoroughly with all aspects of the problems involved and to achieve results which will be beneficial to the future collaboration of all peace-loving States.

Moved by the sincerest desire to contribute to the success of the Conference, the Czechoslovak Government submits the following observations and suggestions.

I

The Dumbarton Oaks Proposals are dominated by the idea that the maintenance of international peace and security can best be secured by a single organ capable of rapid deliberation and swift decision. They therefore place primary responsibility in this respect on the Security Council and invest it with the widest powers. Chapter VI (B) (2) states only that "the Security Council shall act in accordance with the purposes and principles of the Organization". Chapters I and II which enumerate these purposes and principles are, therefore, of the utmost importance and the Conference will certainly submit their contents to a very exhaustive and careful examination.

The Czechoslovak Government agrees that the new Organization should possess the widest powers and should retain sufficient flexibility to be capable of organic growth and of mastering any situation that may arise. Past experience has proved sufficiently that rigidity and over-elaborate definitions may not always produce the desired results. Nevertheless, there are, in the opinion of the Czechoslovak Government, certain fundamental principles which should be expressly included in the Charter of the new Organization. The discussions at the Conference will reveal the general feeling of the delegations on this important subject. It seems to the Czechoslovak Government that these principles should at least include, in addition to those already mentioned in Chapters I and II of the Proposals, the observation of international law and of treaty obligations; and, further, respect for the territorial integrity and political independence of States-members.

Should the Security Council come to the conclusion that international peace and security can be maintained only by measures not in conformity with these fundamental principles, and especially by territorial changes, the matter should be laid before the Assembly. At the request of any party to the dispute, the question shall also be laid before the Assembly. In these cases the Assembly should decide by a two-thirds majority vote.

The Council shall always have the right and the duty to take all conservatory measures necessary for the maintenance of peace and security.

II

Chapter VIII (A) refers to the pacific settlement of disputes. The Czechoslovak Government is of the opinion that this very important Chapter deserves several observations:

1) It is certainly desirable and necessary that for this preventive action the Security Council should be given as much power as possible. The Czechoslovak Government understands, however, that the Council should intervene only when, and after, all other means of pacific settlement convened beforehand or agreed ad hoc by the parties, have been exhausted. Paragraphs (3) and (4) seem to justify this interpretation. Paragraph (3) stipulates that the parties should obligate themselves, first of all, to seek a solution by negotiation, mediation, conciliation, arbitration, or judicial settlement, or other peaceful means of their choice. And paragraph (4) binds the parties to refer their dispute to the Council only if settlement by other means has failed. But paragraph (5) may create some confusion, because it gives to the Council the right to intervene at any stage of the dispute. It is true that according to paragraph (1) this intervention is to be limited to the determination "whether the continuance of the dispute is likely to endanger the maintenance of international peace and security". What is the meaning of this restriction? Is it to be understood that

while a special procedure is in progress the Council should limit its intervention to the recommendation of conservatory measures proper to the elimination of any threat to peace and security? The Czechoslovak Government would advocate this interpretation. The main issue of the dispute should be settled, first of all, by the special procedures and the Council should undertake such a settlement only when, and if, the parties fail to find a solution by the special means indicated. The wording of paragraph (5) should, therefore, be redrafted in order to make clear the different nature of the intervention of the Council during, and after, the special procedures.

2) The Czechoslovak Government notes with satisfaction that all the provisions of Chapter VIII (A) refer only to disputes "likely to endanger the maintenance of international peace and security". This seems a reasonable and necessary limitation. The obligation of the Council to examine, in each case, whether a dispute falls within this category, will prevent, it is hoped, any attempt to encumber the Council with minor affairs, or to misuse it by presenting it with artificial claims and disputes.

3) The role to be given to the International Court of Justice seems, to the Czechoslovak Government, a matter of far-reaching importance. The Court has certainly proved a very valuable institution and its activity should be not only maintained but developed and extended as far as possible. Paragraph (6) provides that "justifiable disputes should normally be referred to the International Court of Justice". It is suggested that the word "normally" should be omitted. If there are any doubts whether a given dispute is "justifiable" or not, the Court itself should decide by a preliminary statement. The reference to the Court by the Council of "legal questions connected with other disputes" should be regarded as a matter of procedure.

4) Paragraph (7) stipulates that the Council should not deal with matters which, by international law, are solely within the domestic jurisdiction of the State concerned. This provision is certainly well-founded and will be welcomed particularly by smaller States. They will rightly see in it an important guarantee against the possibility of interference in their internal questions. If there is a difference of opinion as to whether a given question falls within the domestic jurisdiction, it should be considered a judicial dispute and therefore referred for decision to the International Court of Justice.

III

The Czechoslovak Government welcomes particularly the Proposals contained in Chapter VIII (B) relating to the "determination of threats to the peace or acts of aggression, and action in respect thereto,". In addition to the preventive action of Chapter VIII (A), here is the second pillar of the whole edifice. The authors of Dumbarton Oaks, having in mind the bitter experience of the past, have endeavored to construct it of solid material. They propose to give to the Council as much power as possible. Paragraph (2) provides rightly that the Council should be able not only to make "recommendations" but to "decide" upon measures to be taken to maintain or restore peace and security. Here again, the drafting is very general and no precision is given, so that the Council will be practically free to take any measure which it might consider necessary. This complete freedom certainly has the advantage of enabling the Council to adapt its action to any situation. Yet it remains a question whether this absence of any rule of conduct will still be of advantage when the case seems absolutely clear, and when only the application of previously defined rules would seem to guarantee action sufficiently swift to prevent an unscrupulous aggressor from creating, in his own favor, a situation the redress of which may prove very lengthy and very difficult. In the past, the Czechoslovak Government has concluded with several other Governments a Convention for the definition of the term "aggressor". Article 2 of this Convention had the following text:

"The aggressor in an international conflict shall, subject to the arrangements in force between the parties to the dispute, be considered to be that State which is the first to commit any of the following actions:

1). Declaration of war upon another State;

2). Invasion by its armed forces, with or without declaration of war, of the territory of another State;

3). Attack by its land, naval, or air-forces, with or without declaration of war, on the territory, vessels, or aircraft of another State;

4). Naval-blockade of the coasts or ports of another State;

5). Provision of support to armed bands formed in its territory which have invaded the territory of another State, or refusal, notwithstanding the request of the invaded State, to take in its own territory all the measures in its power to deprive these bands of all assistance or protection."

IV

Chapter VIII (C) concerning regional arrangements will prove very useful for the promotion and the strengthening of international peace and security. The needs of certain regions may be different and peculiar, involving situations which can best be handled by regional conventions and agencies. It seems clear, however, that it will be absolutely necessary to ensure the compatibility of such conventions by placing them within the general framework of the World Organization. Dumbarton Oaks provides rightly that they should be "consistent witn the purposes and principles of the Organization". It stipulates further that "no enforcement action should be taken under regional arrangements or by regional agencies without the authorization of the Security Council". The Czechoslovak Government considers that such authorization should be given in advance and as a general rule for cases of immediate danger where the suspension of any coercive action until the intervention of the Security Council may cause irremediable delays. The measures taken in these cases could be submitted subsequently for approval to the Council.

V

The arrangements for International Economic and Social Co-operation (Chapter IX), and in particular the creation of a special Economic and Social Council, deserve the fullest approval. Future peace and security depend in an ever-increasing measure on general economic and social progress, which can be attained only by constant and friendly international interchange and collaboration. Before this war, and even during hostilities, numerous international organizations and agencies have done valuable work in this respect. It seems very important to bring them all together and to create a new central organ with sufficient authority for general direction and co-ordination. The countries which suffered most from enemy occupation or from the progress of hostilities will be among the most anxious to share in this economic and social collaboration. They face a difficult and dangerous period of transition and re-adaptation. The new central organ may prove very useful in bringing about the speedy return to normal and acceptable conditions throughout the world.

VI

Chapter X gives to the new Secretary-General the important right and duty of bringing to the attention of the Security Council any matter which, in his opinion, may threaten international peace and security. This may be very useful in situations where Governments may hesitate to take action because of diplomatic or other considerations. The Secretary-General and his chief advisers will therefore bear a heavy responsibility.

The choice of this personnel will certainly be affected with the utmost care and caution. There is, however, every reason to believe that the best men will be available. Experience has proved that whatever may have been the causes of the failures and disappointments of recent international institutions, they were certainly not due to the personnel. The staff of international organizations have shown in general a high degree of efficiency and moral standing. They have been valuable promoters of that true international spirit and solidarity which must be of the greatest advantage to any new organization.

April 25, 1945

The United Nations Conference on International Organization

Doc. 2 (ENGLISH)
G/14 (o)
May 6, 1945

GENERAL

MEMORANDUM SUBMITTED BY THE DELEGATION OF THE DOMINICAN REPUBLIC CONCERNING THE DUMBARTON OAKS PROPOSALS FOR AN INTERNATIONAL ORGANIZATION

February 27, 1945

I

On September 12, 1944, the Department of State for Foreign Affairs of the Dominican Republic addressed to the Embassy of the United States of America at Ciudad Trujillo, with reference to a communication of July 13 of the same year, the following Memorandum in which there were stated the basic points bearing directly on the international organization that was to be the object of the Dumbarton Oaks conversations:

> "1. The extension to the entire world of the principles, standards, and practices that today constitute the Good Neighbor Policy adopted by the Government of the United States in its relations with the other countries of America, and the definitive consecration of the same policy as the fundamental doctrine of international relations.
>
> "2. The reaffirmation and strict application of the principle of non-intervention as it has been recognized in international assemblies of American States and as it is being put into practice at the present time through the Good Neighbor Policy of the United States Government.
>
> "3. The world organization of peace, justice, and security, bearing in mind, as the Government of the United States has expressed by different methods, the special ties uniting the American Republics, which may achieve their most adequate instrumentation through the creation of the League of American Nations.

> "4. The expressed recognition of the equality of all nations, great or small, in the organization being created to assure the peace, in such a manner that the Council of the four greatest nations and a sufficient number of the others--suggested by President Roosevelt--may assure to the smaller nations an equal right to participate in the activities of this body in accordance with an equitable system of rotation.
>
> "5. The recognition of the equality of access to markets which, by their geographic location and because of the nature of their production, may extend equitable treatment to a determined number of countries without establishing preferences among them."

To this was added in the same Memorandum:

> "The Government of the Dominican Republic will make any other suggestions or observations, in the matter of principles, organs, procedures, jurisdiction, competence, or any other subject, after learning the results of the Dumbarton Oaks conversations, or whenever it is opportune in relation to post-war organization."

II

The program of the Inter-American Conference on Problems of War and Peace contains the following suggestion:

> "II. Study of problems relating to the international organization for the maintenance of peace and collective security. a) World organization. b) Development of the present Inter-American System and its coordination with the world organization."

As to the first point, that is, world organization, the subject of interest to this Memorandum, the Government of the Dominican Republic considers that the proposals formulated at the Dumbarton Oaks conversations undoubtedly constitute a lofty effort to create an international system offering the necessary guarantees for the maintenance and strengthening of peace and security. Thanks to it, and without losing sight of the constant and evident tendency of the foreign policy of the Republic to act in sincere cooperation with that of the United States of America, the only New World nation participating in the Dumbarton Oaks meetings, the Dominican Government approves in principle the afore-mentioned Proposals, on which it presents, however, the following views:

1) The exposition of the purposes of the international organization whose establishment is sought is satisfactorily made in the first chapter of the Proposals. It is considered, however, that as regards Paragraph 3, it would have been advisable to indicate, as an efficient means of achieving international cooperation in the solution of economic and social problems, the necessity of the existence of equality of treatment and the adoption of just and equitable procedures in international trade, which the Dominican Republic advocated in a decided manner at the United Nations Conference on Food and Agriculture.

2) Concerning the principles of agreement upon which the international organization and its members should act in order to achieve the purposes contained in the Proposals, the Dominican Government agrees with the Juridical Committee that the expression "sovereign equality" used by the authors of the Dumbarton Oaks Proposals, upon expounding the first of those principles, contains a guarantee that the sphere reserved for those rights essential to the permanence of the juridical personality of States will not be invaded. In short, such a concept forms the basis of the memorandum transmitted, as mentioned above, on September 12, 1944, by the Dominican Ministry of Foreign Affairs to the United States of America, and it constitutes one of the American principles of International Law, incorporated in the proposals approved by the Conference of Jurists at Rio de Janeiro in 1937.

In fact, it may be said that out of the sovereign equality of States arises the necessity of international organization and that all the obligations that these proposals signify to the States members of it are intimately related to this essential principle, especially the obligation involving the exclusion of all intervention on the part of one State in the affairs of another, an exclusion that would not cease except for the benefit of the international organization and only in the measure and the scope determined by the reservation already stated concerning the essential rights of each member.

On the other hand, as was also expressed by the Juridical Committee, it would be desirable for the second of the principles mentioned in these proposals to be completed with the reaffirmation of the general principle of good faith in the observance of treaties. The Good Neighbor Policy, adopted by the United States Government in its relations with the other American countries, and the fundamental principles of

Pan Americanism, rest upon the observance of this principle which should be included in the basis itself of the proposed international organization.

The rule pacta sunt servanda should be incorporated into what has just been stated above--the rule that, at the Third Meeting of Ministers of Foreign Affairs of the American Republics, was the object of a praiseworthy declaration and which has an especially essential scope in questions relating to boundaries between States.

3) In the Proposals for the establishment of the aforementioned international organization, it is stated that all peace-loving States should have the opportunity of becoming members of that organization. Therefore it is desirable to express the universal but non compulsory character of it.

In practice, this does not involve serious consequences because states, in addition to feeling a moral obligation, will consider, first, the benefits to be derived from their participation in the international organization and, second, the disadvantages that would be created for them by presuming that their withdrawal from the organization would ramify the existence of a will contrary to the essential purposes and fundamental principles of the community of free nations of the world.

It would be advisable, however, if the general character of the organization were expressed in a more precise manner, clearly stating that all States would be invited to participate in the establishment and functioning of the organization, except for a special system that would temporarily pertain to present enemy States.

4) In the Dumbarton Oaks Proposals it is expressed that the organization will have as "principal organs" a General Assembly, a Security Council, and International Court of Justice, and a Secretariat, as well as subsidiary agencies.

Although there is no objection forthcoming with regard to the composition of the General Assembly, this is not true as regards that of the Security Council.

Certainly, the necessity for the decisions of the Council to encompass the greatest efficacy and to have the most effective support counsel that permanent character be granted, at least during the initial period of the organization, to the seats reserved for the four nations whose greatest efforts have resulted in preventing the existence and spread of force throughout the world, and, opportunely, for France. But it is no less certain that this procedure does not exclude but, on the contrary, implies that there is contemplated greater collaboration on the Security Council on the part of other nations equally concerned that the international juridical order be established, exist, and endure on indestructible bases.

Owing to the double consideration that has just been expressed, the Dominican Government believes it desirable to suggest certain amendments to the subject matter here dealt with.

With regard to the first of these amendments, it would be well to consider whether there is another nation on the American continent that, from various points of view and particularly from that relating to efforts made to bring the cause of the United Nations to a victorious end, is in the same or an analogous position of responsibility and sacrifice as the nations to which the Proposals assign permanent seats; to the end that there be extended in its favor, if such is the case, equal treatment or an identical position on the Council.

The second suggestion refers to non-permanent seats. In relation to this point, it would be fitting to formulate the proposal that at least one third of the non-permanent seats on the Security Council be assigned to the Latin American nations, whether the number of such members be increased to nine or ten, as appears preferable, or whether the number provided for them at the present time remain unchanged. Such a measure would concern not only the consideration of the great number of these nations and their political, social, and economic significance, but also, and especially, what they represent to the existence and development of the international spirit which is so essential to the life and functioning of the proposed organization.

The experience of the League of Nations, created by the Versailles Treaty in 1919, is favorable to the last of these formulated suggestions. In effect, by resolution of the Assembly on September 8, 1926, the number of members of the Council chosen by the former was increased from six to nine. In addition to assigning three of these non-permanent seats to Latin American States, it was recognized that, at least in accordance with the practice of the League, one of these seats was for the representation of the States of Central America and the West Indies.

5) A point of primary importance to the lofty purposes and proper functioning of the international organization to which this Memorandum refers is the relationship that should exist between the General Assembly and the Security Council.

If, as a consequence of what has been said elsewhere, it is true that it is necessary to create a Security Council with the attributes and powers needed in order to inspire respect for the principles serving as the basis of the international organization, it is no less true that the Council should be reconciled, in the broadest manner possible, to the expediency and necessity of recognizing, in favor of the General Assembly, the deliberative character its very nature seems to require.

The Security Council should be granted attributes and powers in accordance with its considerable responsibility in the preservation of international peace and juridical order; but it should not be regarded as constituting a delegation from the General Assembly, in favor of the Security Council, of all or of the more important powers that should be vested in it. Chapter VI, Section B, paragraph 1 should be understood in this sense.

On the other hand, even taking the Proposals as they are, it is suggested that the formulas or statements used therein to expound the attributes of each of those organs and to express the relationships that should exist between them should be specifically and clearly determined. This is especially true in relation to the meaning and scope of the word "recommendation", which is listed among the attributes of the Assembly and the Security Council. In both cases, it is considered desirable to state that the recommendations will not have the power to abolish or diminish the capacity of the organ receiving them, but will constitute only views or proposals that should in certain cases be presented as a prerequisite to the action of the organ receiving them. In these cases it would therefore be advisable to indicate in an unequivocable manner the unavoidable nature of the obligation of the organ whose duty it is to hand down those opinions or make those proposals.

6) It is thought especially necessary to clarify and determine with precision the rule established by Chapter V, Section B, paragraph 1 of the Dumbarton Oaks Proposals, adopting for this purpose the criterion established by the Juridical Committee in the initial paragraph of its comments

on the main functions and attributes of the General Assembly, as well as in the following paragraphs.

7) Among the sanctions listed in these Proposals that are applicable to members infringing the principles established in the Charter of the Organization is the expulsion of such members from the association.

It seems advisable that said sanction be eliminated, because, on the one hand, the character of the international organization should be universal in principle, and on the other hand, the suspension of the exercise of the rights or privileges inherent in membership in the organization, together with the sanctions provided for in Chapter VIII, Section B, paragraph 3 of the aforementioned Proposals, would at least assure all the effects of expulsion without offering any of its undesirable features.

8) To nations sincerely and profoundly interested, as is the Dominican Republic, in the maintenance of the rule of law in relations among States, it is evident that the general organization in question must have at its disposal armed forces to defend the existence of the international juridical order.

It would be necessary, then, to choose for that purpose a system that in practice would meet the requirements of the international organization, without forgetting that coercive armed action would depend on the exclusive opinion of a relatively small number of States, and it would therefore be desirable to establish, as specifically as possible in the Charter of the Association, the conditions characterizing armed aggression. In fact, it is advisable that the aim pursued by the Dumbarton Oaks Proposals should not give rise to any fear among members of the organization, especially the small States, that there could be a return in the not distant future to what was called the "right of intervention".

International policing could be exercised with sufficient efficacy and without danger to the fundamental principles of the equality of nations by military forces belonging to all States interested in the maintenance of peace, but which would be at the disposal of the international organization to be established. For this purpose the proper special agreements could be negotiated, there being no apparent necessity, at least for the present, for the creation of a so-called international army.

9) Chapter VII of the Proposals is devoted to the establishment of an international court of justice and in the plans formulated at the Dumbarton Oaks meetings the objective which prevailed of extending the importance of said court is virtually stated.

From all points of view, and above all in case the character attributed in the Proposals to the Security Council as the organ of supreme authority in the international organization is maintained, it would be proper to confer on the court in question the greatest possible participation compatible with its special high significance in the maintenance of peace and security.

In this sense it is desirable to emphasize, as the Juridical Committee has done in its comments, referred to above, that "nothing has been determined with respect to decisions as to whether this or that controversy is or is not susceptible to judicial solution; it is undoubtedly understood that the Dumbarton Oaks conference postponed this question for regulation by the Statute of the court".

The importance of this point is essential in considering the role that should be attributed to the international court in the world organization, and because of it, the Dominican Government adheres to the opinion expressed by the said Committee in the following paragraph:

"Nevertheless, assuming that the jurisdiction of the court will be established in the Charter itself, it would appear desirable to add a clause stating that determination of its jurisdiction will be made in the Statute of the court. If by controversies susceptible to judicial solution is meant disputes in which there is a conflict among States over their respective rights and that, therefore, by their very nature such conflicts are open to decision through application of the principles of law, the court should be competent to decide what disputes should be included in this category. Generally speaking, all disputes which the parties cannot solve by themselves should be submitted to the court. If the court refuses jurisdiction, basing itself on the opinion that the controversy does not admit of judicial solution, then the dispute should be carried to the Security Council for final decision."

There is no support, then, for establishing the rule that the court should treat affairs of a political nature, but that it should decide as to the judicial nature of disputes which the parties thereto cannot solve by themselves. In fact, the determination of the criterion that should serve for differentiating between judicial and political matters is as important as it is delicate and difficult, and the court itself should be given the authority to determine its own competence.

In Article 13 of the Covenant of the League of Nations account was taken of what has just been noted with reference to such a criterion, for, instead of establishing a general rule in the matter, the authors of the Covenant preferred to formulate the following suggestions which leave a very broad field open to judicial procedure: "Among those which are generally susceptible to arbitral or judicial solution are differences relative to interpretation of treaties, all points of international law, all acts which, if they are accomplished, might constitute the breach of an international commitment, or the extension or the nature of the reparations due because of such breach."

A complication presents itself, however, that should be taken into account: that is, cases that require action, such cases being reserved for treatment by the Security Council. In these cases urgency seems to be the dominant element, but even in such situations, the court should be protected in the matter, as far as possible, in order that it might examine the matter in accordance with its competence.

The delicacy of this aspect is that it will devolve upon the Council to determine the cases demanding action, and with respect to this, there does not appear to be any control in the Dumbarton Oaks Proposals.

It is advisable, finally, as indicated by the Juridical Committee, that the Protocol annexed to the Statute of the Permanent International Court of Justice--which is at present an independent treaty--be incorporated in the Charter of the proposed general organization. The effectiveness of that act would thus continue but with such modifications as might be desirable.

10) Another point of considerable importance in the Dumbarton Oaks Proposals is that referring to the rule governing the voting procedure in the General Assembly. According to those Proposals, the most important decisions will be made by a two-thirds majority and others by a simple majority of those present and voting, with such exceptions as are established in the Charter (Chapter V, Section C, paragraph 2).

The rule adopted by the Covenant of 1919 was the same as that which governs diplomatic conferences: unanimity, except in duly established cases. It is evident, nevertheless, that this rule frequently makes impossible the adoption of desirable or necessary decisions and for that reason the proposed innovation should be adopted, without its hindering in any way, however, the desirability that in place of the two-thirds majority a greater proportion be adopted, which would permit joining the advantages of both systems and decreasing their respective undesirable features.

11) With regard to international cooperation in the solution of economic and social problems, it would be advisable that the Charter of the international organization in question contain the provisions necessary to determine the future situation of the agencies at present subsidiary to the League of Nations, such as the International Labour Office and others that have functioned with notable efficiency.

It would be desirable to determine, furthermore, if the proposed Economic and Social Council will take over all the functions that at present belong to those agencies and those which have been established as a result of other important conferences held during the present conflict.

12) It is fitting to note that the voting procedure of the Security Council has not yet been determined and the Dumbarton Oaks Proposals in their final note state that "several other questions are still under consideration". The respective proposals can therefore be expected on this voting procedure and the other questions.

IN SUMMARY, the Dominican Government approves in principle the Dumbarton Oaks Proposals, with respect to which, nevertheless, it has the honor to suggest:

A) That to achieve international cooperation in the solution of economic and social problems (Chapter I, paragraph 3) there be stipulated in the Charter of the international organization the necessity for the existence of equality of treatment and the adoption of just and equitable procedures in international trade.

B) That the second of the principles enunciated in the Proposals (Chapter II, paragraph 2) be completed with a reaffirmation of the general principle of good faith in the observation of treaties, in which there shall be duly consecrated the rule pacta sunt servanda, a rule that is of basic importance, especially in questions of boundaries between States.

C) That the general character of the Organization be expressed in the most specific manner (Chapter III, paragraph 1), and that for this purpose all States be invited to participate in the establishment and functioning of the Organization, except for a special system that would temporarily apply to present enemy States.

D) That there be determined in the Charter of the organization a greater collaboration within the Security Council of the nations not designated in the draft as permanent members of said Council; and that for this reason there be determined if, in the American Continent, such membership should be assigned to any other nation because of various considerations, and, especially, because of its efforts toward the victory of the cause of the United Nations (Chapter VI, Section A).

E) That in order to assure greater cooperation of the States not permanent members of the Security Council (Chapter VI, Section A), the number of non-permanent members be increased to nine or ten.

F) That in consideration of the number of Latin American States, and especially in consideration of their great political, social, and economic significance, as well as for what they represent in the life and development of international spirit, there be granted to those States at least one third of the number of non-permanent seats on the Security Council (Chapter VI, Section A).

G) That amendment of Chapter VI, Section B, paragraph 1, be considered, in order that the powers to be granted the Security Council, if it is desired that the proposed organization be efficacious, be reconciled with the deliberative character of the General Assembly, according to its own nature. If this amendment, nevertheless, is not considered advisable, it would in any event be desirable that the special attributes of those organs be fixed with greater precision, particularly with respect to the two following points: a) the validity that should be given to the recommendations of the General Assembly or the Security Council, since the draft does not indicate whether or not these have imperative scope; and b) the unavoidable nature which should attend the obligation of the organ whose duty it is to hand down opinions or make proposals.

H) That the provisions of Chapter V, Section B, paragraph 1 be clarified and made more specific, in accordance with the opinion of the Juridical Committee set forth in the first paragraphs of its comments on the principal functions and duties of the General Assembly.

The United Nations Conference on International Organization

Doc. 2 (ENGLISH)
G/7 (p)
May 1, 1945

GENERAL

(TRANSLATION)

REPUBLIC OF ECUADOR

MINISTRY OF FOREIGN AFFAIRS

First Part

DELEGATION OF ECUADOR TO THE UNITED NATIONS CONFERENCE ON INTERNATIONAL ORGANIZATION

COMMENTS AND AMENDMENTS TO THE PROPOSALS FOR THE ESTABLISHMENT OF A GENERAL INTERNATIONAL ORGANIZATION AS SUBMITTED BY THE DUMBARTON OAKS CONFERENCE

Preliminary considerations

The Government of Ecuador has been invited to the World Conference of United Nations to be held in San Francisco, California, beginning April 25 of this year, to discuss and adopt the charter of a general international organization on the basis of the proposals submitted on the subject by the Dumbarton Oaks Conference.

Such circumstance and the acceptance by Ecuador to attend this International Conference create a responsibility for the Government of Ecuador and its constituted Delegation, which must be translated into the unavoidable obligation to submit to such Conference the comments on the Proposals which we feel are warranted and to propose the corresponding amendments thereto, working them into a firm and organic system which may weigh and reconcile equally the international juridical ideals of the Republic, its unrenounceable rights to life and to perfectibility, and the peculiar conditions of the world in the coming cycle of the peace.

However, to these inspiring criteria of our thought there should be added those which, with the moral authority of the Republics of the hemisphere, were set forth in Resolution XXX on "Establishment of a General International Organization," which was adopted and subscribed at the Inter-American Conference on Problems of War and Peace, held recently in Mexico, the strictly resolutive part of which reads as follows:

"1. That the Secretary General of the Conference transmit to the states which formulated the Dumbarton Oaks Proposals, to the other nations invited to the forthcoming Conference at San Francisco, and to that Conference itself, this resolution, and the report with the documents hereto attached containing the views, comments, and suggestions which, in the judgement of the American Republics presenting them, should be taken into consideration in the formulation of the definitive Charter of the projected Organization, especially the following points regarding which a consensus exists among the American Republics represented in this Conference that did not participate in the Dumbarton Oaks Conversations:

"a) The aspiration of universality as an ideal toward which the Organization should tend in the future;

"b) The desirability of amplifying and making more specific the enumeration of the principles and purposes of the Organization;

"c) The desirability of amplifying and making more specific the powers of the General Assembly in order that its action, as the fully representative organ of the international community may be rendered effective, harmonizing the powers of the Security Council with such amplification;

"d) The desirability of extending the jurisdiction and competence of the international tribunal or court of justice;

"e) The desirability of creating an international agency specially charged with promoting intellectual and moral cooperation between nations;

"f) The desirability of preferably solving controversies and questions of an inter-American character in accordance with inter-American methods and procedures, in harmony with those of the General International Organization; and

"g) The desirability of giving an adequate representation to Latin America in the Security Council.

"2. To express to the other United Nations invited to participate in the San Francisco Conference the common desire of the American Republics to receive from them before that Conference the views, comments, and suggestions which they on their part may deem it convenient to transmit.

"The Governments signatory to the present resolution retain full liberty to present and support in the San Francisco Conference, as representatives respectively of sovereign states, all the viewpoints which they may consider pertinent, many of which may be found in the annexed documents."

The principles of the preceding Resolution which constituted, to put it thus, the common denominator of the American Republics at the Chapultepec Conference, with respect to the vast and complex subject of a world organization, demand that the signatories of that memorable instrument reiterate and defend them, as an unavoidable moral duty, at the San Francisco Conference, as it would not be in harmony with the spirit of unity which should prevail over American participation in that important international test, to impair or abandon them, even in the exercise of the full liberty which is recognized under the last paragraph of Article 2 of the said Resolution in favor of those Governments to present as sovereign powers the points of view which they may consider pertinent.

Fortunately, as far as Ecuador is concerned, its Government maintained those high principles in the memorandum which it addressed to the American Governments prior to the Mexico Conference, and subsequently submitted them briefly to the consideration of that Conference.

It therefore behooves the Delegation of Ecuador to the San Francisco Conference to renew its faith in those generous principles, formulating them again and giving them all the necessary scope so that the Conference may adopt them in the text of the Charter of the World Organization.

Furthermore, those principles do not exhaust the inventory of the legitimate aspirations of America, for it is necessary to recall that in the Mexico Conference the Delegations of our Republics merely deemed advisable to advance certain criteria which might serve as bases for the concise conclusions adopted in the chapter on World Organization.

The Delegations went to Mexico knowing in advance that that vast problem would be dealt with in its entire depth and scope at the San Francisco Conference and that, consequently, it was not necessary to debate it in extenso but only to outline general opinions which might permit arriving at likewise general conclusions.

However, notwithstanding the incipient manner of considering such important question, Resolution XXX of the Mexico Conference ought to exercise a healthy and guiding influence in the results of the United Nations World Conference if the American Republics should succeed in disciplining and unifying their participation in it, preventing the dispersion of their opinions and positions from leading them in disorder to improductivity of effort.

America's contribution to the creation of a world Charter involves transcendental angles. Her Governments have just wisely perfected the Inter-American System at the Chapultepec Conference, eliminating its original defects; or has just provided a security system against all aggression by defining an aggressor and establishing punitive measures and means for restoring the breached juridical order; or, lastly, has just affirmed and enriched the patrimony of rights of the States, so that at the San Francisco Conference our republics may not be confined to the role of accommodating and subordinate spectators.

The key to the effectiveness and, consequently, to the survival of a world organization will lie to a very great extent on its ability to borrow the spirit and the letter of the international institutions of America, without lapsing into the errors which, like a deadly germ, brought about the premature demise of the former League of Nations.

Comments and amendments to the Plan of the General International Organization

Name of the Organization

The problem of naming the General International Organization is not limited merely to formal terms, inasmuch as the name which will have to be given to it must out of logic reveal its essence and nature.

The name suggested in the Proposals for the proposed organization, namely "The United Nations", would doubly conspire against the principle of universality to which the new organization should tend, and against its required character of a juridical structure.

In fact, the United Nations constitute a notable majority of sovereign States in the world which, due to present circumstances, will be the founders and members of the Organization. Beyond this, it should not be deduced that the nations lacking that qualification can not, within the mediate or immediate future, join the Organization, meeting all the requirements established in due course.

From another point of view, a League or Society "of United Nations" would appear to imply by this name the existence of a group of States linked by a system of transitory alliance which, like any alliance, possesses an eminently political scope.

This would not be compatible with the universal aspiration to vest the new organization with a preferably juridical character, that is to say, to establish it as a world society of States governed as far as possible by the fundamental principles of Public International Law.

In view of the foregoing considerations, the Delegation of Ecuador is of the opinion that the proper name for the new organization would be "INTERNATIONAL JURIDICAL ASSOCIATION" or "JURIDICAL COMMUNITY OF STATES", or lastly, another similar name which can translate fully the said identity of the same.

Purposes of the Organization

In Chapter I of the Proposals the purposes of the Organization are set forth. Although it is true that all of them are inspired by laudable motives, their enumeration suffers from incompleteness, in so far as no reference has been made in its text to the rule of justice and law among States as a prerequisite and foundation for international peace and security, for without such presupposition these concepts would lack sense or would lead to dangerous or unjust situations.

In accordance with this observation, the Delegation of Ecuador believes that the following should be set forth as a preliminary paragraph of Chapter I:

> "To maintain international peace and security through the adoption of collective measures which render effective the rule of justice and law among States".

It would be advisable, furthermore, that in paragraph 3) of the same Chapter reference be made to the solution of cultural problems as one of the objectives of international cooperation.

Principles of the Organization

Chapter II of the Proposals establishes the principles of the Organization, but like the preceding chapter it suffers from lamentable omissions. To correct them and, consequently, to give to the Charter and to the international entity created by it the full juridical significance which they need, it would be necessary that the following principles be incorporated in its text, as an amendment or addition:

"The supremacy of moral law as the guiding motive of Positive International Law which governs relations between States.

"The juridical equality of all sovereign States as an expression of their identical significance before the common law which governs their reciprocal relations and as means for correcting and repairing any practical or political inequality which may be interposed between them.

"Fundamental respect for the internal or external personality and sovereignty of States, in so far as it is not incompatible with the rights and powers of the International Community, juridically represented by the International Organization established by the present Charter.

"The outlawing of bad faith as a rule of conduct in international relations.

"Publicity of foreign relations and the reciprocal obligation of States to maintain their means of international communication and information open.

"The obligation which is incumbent on States to use pacific means for the solution of their international differences, whatever may be the nature of the latter.

"Formal repudiation by the States of the exercise of moral or physical force in their mutual relations, unless such measures should be the result of action agreed upon by the International Organization, within its international police system.

"The nullity of the acquisition of territories through the exercise of any moral or physical force.

"The repudiation and prohibition of all direct or indirect intervention, whatever may be its cause, on the part of one or more States in the internal or external affairs of another or others, without prejudice to the rights and powers vested in the Organization by the present Charter, to continental or regional pacts or instruments, and to freely concluded treaties and conventions.

"The declaration that an attempt by a State against the territorial integrity or inviolability, against the sovereignty or political independence of another State, shall be considered as an act of aggression against all the States which constitute the International Community."

Finally, the Delegation of Ecuador offers its adherence to the suggestion made by the Delegation of Mexico at the Chapultepec Conference, such as it appears under number 2) of its amendments to Chapter II of the Proposals, in order that it be included among the principles of the Organization.

Its text reads as follows:

"The Organization guarantees the territorial integrity and political independence of all the member States, as well as respect for treaties, within the limitations imposed by the readjustments and revisions which may be required by the evolution of the conditions of international comity."

The progressive and contemporaneous tendency to consider the human being as one of the subjects of Public International Law, coupled with the necessity of insuring an adequate system of international protection for the minimum of its individual and social rights, should be accepted not only because of the respect that is due the dignity of its juridical condition, which can not be set aside by the International Community which is definitely the sum total of mankind, but also because experience has shown that the rule of normality and internal peace of states as a consequence of the recognition and exercise of such rights, is one of the full antecedents of international normality and peace.

For this reason, the Delegation of Ecuador proposes that an additional numbered paragraph drafted in the following terms be inserted in Chapter II of the Proposals:

> "The Organization recognizes that, in the name of higher principles of justice and humanity, it is necessary to assure to human beings a system of international protection of their essential rights, enumerated and defined in the Declaration which the General Assembly shall formulate in this regard."

Membership of the Organization

In Chapter III of the Proposals there is set forth the aspiration that the Organization "should be open to all peace-loving States."

If the second world war has truly upheld the evident proof for classifying States, distinguishing those which profess firm pacifist convictions from those which deny them or have denied them by engaging in aggression and violence, the classification of "peace-loving" States as a requisite for acquiring the condition of member of the Organization is merely pursuant to a circumstantial, historical and, therefore, relative criterion which is in conflict with the idea of universality which should characterize the new international structure.

It is therefore necessary to contemplate this question from an historical perspective which, recognizing the present world realities, may generously project into the immediate future.

Theoretically, it is an irrefutable proposition that if the budding Organization aspires to convert the natural society of sovereign States into a juridical community, all of them, without any exception, must have the original capacity to belong to their concert.

In practice, it is also an irrefutable thesis that the Organization created by the Charter to be adopted and subscribed at the San Francisco Conference should only accept initially into its membership the States which may have, through their competent delegates, adopted and subscribed that Charter and which ratify it in accordance with their respective constitutional processes.

Gathering and coordinating these two propositions, between which there does not exist a logical relation of conflict, the Delegation of Ecuador, submits to the consideration of the Conference the following draft of No. 1, Chapter III, of the Charter:

> "The Members of the Organization are those States which have subscribed without any reservation the present Charter and have subsequently ratified it".
>
> "All the present sovereign States of the World or those which may subsequently become so, shall have the power to apply for admission as Members of the Organization, and shall be admitted in effect if they possess the qualifications and fill the requirements which shall be determined in due course by a vote of two-thirds of the General Assembly."

The Delegation of Ecuador suggests also, adopting the observations made on the subject by the Delegation of Brazil of the Mexico Conference, that no member of the Organization shall be expelled from it nor withdraw voluntarily therefrom.

The principal reason which exists for excluding the possibility of expulsion or withdrawal of Members from the Organization is none other than the imperative necessity of guaranteeing the existence and strength of the proposed world structure, avoiding a situatuion where through the occurrence of either the first or second of such cases, the Organization may be weakened or impaired by the diminution of the number of its Members, and the consequent and anomalous situation may arise in which Members, losing their condition as such, may fall outside the system of rights and duties which a universal juridical community presupposes.

In view of the foregoing considerations, the Delegation of Ecuador proposes that a paragraph numbered 2 be added to Chapter III, reading as follows:

"No Member State may be expelled from the Organization or may voluntarily withdraw therefrom."

Principal Organs

Chapter IV of the Proposals limits itself to the enumeration of the principal organs of the new international organization.

The only comment that the Delegation of Ecuador could deduce with respect to the Chapter in question is that it is advisable to include in its text the mention of two organs: the Economic and Social Council, which is provided for in the Proposals themselves, and a new organ which might be established under the name of "Educational and Cultural Council" the essential purpose of which would consist of promoting the "international spirit" as a necessary foundation for a genuinely international society of States and, at the same time, as a universal entity devoted to the diffusion and interchange of the values of human culture in their widest sense.

Thus, number (1) of Chapter IV should be worded as follows:

"The principal organs of the organization established by the present Charter are the following:

(a) the General Assembly;

(b) the Security Council;

(c) the Permanent International Court of Justice;

(d) the Economic and Social Council;

(e) the Educational and Cultural Council, and

(f) the Secretariat."

The General Assembly

Chapter V of the Proposals provides for the advisable rules which would govern the composition, functions and powers, the voting procedure, and the procedure of the General Assembly of the Organization.

The body of these provisions, particularly the part concerning the functions and powers of this fundamental organ, suffer from a certain lack of precision, which is indeed understandable if one notes that the proposals which contain it constitute merely the expression of general wishes or suggestions, for the mission of the governments which discussed and concluded them did not go further.

However, it appears lamentably to be the intention of the governments who drafted the proposals, to place the General Assembly in a subordinate position with respect to the Security Council to which, in the corresponding chapter, it is endeavored to entrust "the responsibility for the maintenance of international peace and security", charging the Assembly with a sum of restricted powers, which strictly does not rightfully correspond to its eminently representative nature, for according to the system of its composition, all the members of the Organization should be members thereof, whereas the Security Council, through a "delegation of power" which such members would confer upon it, would concentrate in itself all the powers and functions pertinent to that central responsibility.

This would, of course, be acceptable if it were possible to have all the members of the Organization represented on the Security Council, but inasmuch as this hypothesis is eliminated for the reason that this body must be composed of a limited number of members, in order to give it greater effectiveness and speed of action, the lack of balance of powers between the Assembly and the Council would involve a serious violation of the principle of "sovereign equality" of the States set forth originally in the corresponding chapter of the Proposals.

This violation assumes greater relief if one considers that according to the Proposals there is no provision for the principle of free election in the designation of all the members of the Council, but rather it is reserved for the determination of certain members, the "non-permanent" ones, whereas others must occupy "permanent" seats.

From the foregoing it is concluded that in order to restore equilibrium between the Assembly and the Council, having due regard to the latter in its principal lines, the orbit of the former's jurisdiction should be extended, without its necessarily impairing the effectiveness of a system designed to maintain international peace and security.

It is obviously realized that the juridical ideal, applicable to such a complex matter, would be to vest the Assembly with the character of a legislative organ, and the

Council with that of an executive organ, within the world structure, in the likeness of the model which a State offers us in its domestic system.

This would mean an undertaking still utopian, superior to the present international conscience of States, which are still reluctant to be deprived of all their patrimony of external sovereignty, without prejudice to their willingness to waive it partially for the edification of a juridical order which may regulate their international activities.

Therefore, a type of juridical community in which the Assembly and Council can perform the legislative and executive functions, respectively, within the natural limitations imposed by a relative freedom in the external power of the States, responds to a criterion of compromise between the requirements of an international society and the exercise of unrestricted sovereignty.

Within this sequence of ideals, and recognizing the insufficiency of powers attributed by the Proposals to the Assembly, for these are merely limited to its power to formulate recommendations and to execute certain political or administrative acts, it would be advisable to undo the tie of subordination existing between it and the Council, and by perfecting those powers, to vest it further with legislative powers in the international organ.

In order to give effect to these ideas, the Delegation of Ecuador suggests that, while the due order of insertion is retained, with the coordination of the provisions of Chapter V and eliminating from the latter everything which may be inconsistent with its spirit or text, the following items be included in that Chapter:

> "The General Assembly is the organ representing directly the Organization."
>
> "The power to establish or progressively amend the principles and rules of law which are to govern the relations between the States lies with the General Assembly, through a two-thirds majority of its members. The instruments embodying those principles and rules shall only come into compulsory effect for all members of the Organization when they are ratified by a number equivalent to a two-thirds part of it."
>
> "The General Assembly shall approve, by a vote of two-thirds of its members, a 'Declaration of the Rights of

Man'. It shall also have the power to formulate votes and recommendations to the member States so that the latter, if they have not already done so, may incorporate such rights in their domestic legislation and seek to respect and guarantee their enjoyment and exercise."

"The General Assembly shall determine, at a time which it may consider proper, the qualifications and conditions to be required of sovereign States which are not members of the Organization for admission to membership, and it is empowered to pass on such admissions, requiring in either case a majority of two-thirds of the votes of the Assembly."

"The General Assembly shall by a vote of two-thirds of its members be able to declare the independence of the countries which are subject to a colonial system, a system of dependency, protectorate or mandate, and which have reached a status of being able to direct by their own means their internal and external affairs, and to fulfill the duties imposed and exercise the rights implied by the status of full sovereignty."

"The General Assembly, by the vote of two-thirds of its members, and upon recommendation of the Security Council, or without such recommendation, may suspend the exercise of any right or privilege inherent to membership by any State which is a member of the Organization and against which the Security Council has adopted preventive or compulsive action, or whenever grave circumstances warrant, in the judgment of the Assembly, that such suspension be enforced. The exercise of the rights and privileges thus suspended may be restored by the Assembly by the same majority of votes as provided for in this article and upon the recommendation of the Security Council or without such recommendation."

"The General Assembly shall, by the vote of two-thirds of its members, elect the non-permanent members of the Security Council, the members of the Economic and Social Council, the members of the Educational and Cultural Council, and the Secretary General of the Organization. In regard to the election of the judges of the Permanent International Court of Justice the Assembly shall perform the duties assigned to it by the Statute of that Court."

The Delegation of Ecuador proposes lastly the addition to Section B, Chapter V of the Proposals, of the numbered paragraph submitted by the Delegation of Brazil in its comments on the Proposals, which were submitted to the Inter-American Conference held in Mexico City, worded as follows:

> "At the request of any of the contracting parties to an executory treaty claiming the total or partial termination of such treaty, or an injustice in its continuation, the Assembly by a majority of two-thirds, may invite either of the contracting parties to come to an agreement with the former for the revision or termination of such treaty. If any of the contracting parties is not in agreement with the revision or termination in question, the other contracting party or parties shall be authorized to refer the matter to the Permanent International Court of Justice so that the latter may, by a declaratory judgment, decide whether the treaty in question has lost all or a part of its compulsory power by reason of a change in the conditions which determined its adoption and of its having become unjustly burdensome on any of the parties."

The Security Council

Chapter VI of the Proposals contains the regulations that should be established with respect to composition, principal functions and powers, and voting and procedure relating to the Security Council.

In Section A of the said Chapter, the composition of that high Body is determined, permanent seats being assigned to representatives of the United States of America, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the Republic of China, and, in due course, France. Furthermore, the General Assembly is charged with the designation of six States to fill the non-permanent seats, the length of their terms likewise being specified.

The essentially executive character of the Security Council requires, in truth, that the number of its members not be excessive but that, at the same time, it not be so small as not to permit suitable and equitable representation of the members of the Organization.

In consideration of the latter reason, it would be desirable for the number of members of the Council to be increased to thirteen, thus bringing up to eight the number of States which would fill the non-permanent seats.

It would, furthermore, be right for three of the eight non-permanent seats to be reserved to the Latin American States in order to fulfill a concept of elementary justice, when it is borne in mind that they represent approximately one-third of the

56

total number of sovereign States of the world, which would possess the virtual ability to acquire the status of Members of the Organization.

Section B of the said Chapter deals with the principal functions and powers of the Council, and its first paragraph states that "in order to ensure prompt and effective action by the Organization, members of the Organization should by the Charter confer on the Security Council responsibility for the maintenance of international peace and security, and should agree that in carrying out these duties under this responsibility the Council should act on their behalf".

There would be nothing objectionable in the very important preceding statement if such great responsibility should be reduced to terms of objective reality in such a way that it would be included in the text of the Charter and that an effective system for making it practical would also be established.

If the Council must assume that responsibility, because it must act in the name of and in behalf of all members of the organization, it is reasonable to suppose that it devolves upon these members to make it effective by means of the only directly representative organ of an international body, that is to say, the Assembly.

And what would be the most suitable method by which the Assembly might exact it?

Perhaps there is no more appropriate way to do it than to establish the obligation of the Council with respect to the detailed and periodical reporting of its activities to the Assembly and the full authority which would be conferred upon the latter to confirm, revoke, amplify or amend the decisions taken by the Council.

But the application of this system, although it would bring a vigorous breath of justice and democracy into the international organization, would incur the tremendous risk of prejudicing the principle of effectiveness in the maintenance of peace and security, especially in questions of enforcement action which the Council might take in case of threatened or accomplished acts of aggression requiring prompt and continuous action to prevent or repress them.

The foregoing does not exclude a conciliatory formula: establishment of the duty of the Council to report on its general conduct to the Assembly, and the authority which the latter would have to address to the former recommendations or votes taken with the purpose of obtaining complete observance of the arduous and complex duties of the Council.

Likewise, and in order to assure division of authority between the Assembly and the Council, it would be advisable to forbid the Council--as the Inter-American Juridical Committee has wisely suggested--to establish or modify principles or rules of law, and with greater reason if there should be accepted the Ecuadorean suggestion that it constitute an exclusive power of the Assembly.

The system of voting in the Council is provided for in Section C of the Chapter under discussion, even though it was considered and agreed upon prior to the holding of the Dumbarton Oaks Conference.

According to the terms of the aforementioned Section, each member of the Security Council should have one vote; decisions of that Body on procedural matters should be taken by the affirmative vote of seven members, and those taken on all other matters should be by an affirmative vote of the same number of members, *including the concurring vote of the permanent members*: it is provided, furthermore, that in the decisions mentioned in Section A of Chapter VIII and in the second sentence of paragraph 1, Section C of the said Chapter, members who are parties to a dispute *should refrain from voting*.

An examination of the meaning and text of this Section leads us, in the first place, to deem it unacceptable that the majority required for decisions which do not concern questions of procedure--that is, the most important ones--should be composed of a vote of all the permanent Members, for to approve this would be equivalent to disregarding to a great extent the presence and vote of the non-permanent ones, thus placing them in a position of evident and unjust inferiority.

From another visual angle, this strange rule would cause it to be frequently impossible for the Council to take fundamental decisions, because it would be sufficient for one of the permanent members to cast his dissenting vote against those of the members of that body to frustrate the approval of an act or resolution, even though such act or resolution might meet the requirements of high justice or pressing necessity.

The acceptance of this thesis would, as stated above, entail fatal consequences for the destiny of the international institution which it is being sought to organize, both because there would be disregarded thereby the principle of the juridical equality of member States, reducing those which obtain non-permanent seats to a sad and decorative function within the Council; and also because this organization would find itself reduced to inertia in the event that only one of the permanent members should desire to hinder the progress of the organization and condemn it to failure.

Under these conditions, there would not be a free association of States but the omnipotent will of a solitary state against the unanimous opinion of all the rest--that is, a plain example of anarchy in an international, apparently organized world.

With respect to the last part of the said Section--that is, withdrawal of the voting privilege of members who are parties to a dispute--this prohibitive clause applies only in matters referring to the decisions mentioned in Section A of Chapter VIII (pacific settlement of disputes), and in the second sentence of paragraph 1, Section C of the said Chapter, (authority of the Council to encourage settlement of local disputes through regional arrangements or by regional agencies).

In all other decisions of the Council and particularly in those set forth in Section B of the said Chapter, in connection with preventive and repressive actions which it may have to take in view of threats to the peace and typical acts of aggression, members of the Council who are parties to the dispute in question would have full power to cast their votes.

This break in the unity of the system, on the basis of the prohibition to vote in less grave decisions of the Council--and of its permission in the more grave and urgent ones--coordinated with the majority system which must prevail, as stated before, poses the hypothesis that aggression or the threat of aggression on the part of a state which is a permament member of the Council against one or more of the other states could not be repelled or neutralized, respectively, by means of the recourses of the system of collective security that have been proposed in the Proposals.

The corollary which would result from this dislocation of the system would be no other than that of sowing the seed of tolerated and free aggression for the harvest of future terrible wars which the Organization could not prevent or stop in its deplorable position as a mere spectator.

The foregoing demonstration leads me to proclaim the universal rule that members of the Council who are parties to a dispute submitted to the direct or indirect consideration of that high Body should refrain from voting in the decisions which it may take in accordance with its attributions and powers provided for in Chapter VIII of the Proposals.

In view of the reasons expressed above, the Delegation of Ecuador proposes that by way of amendment, substitution or addition, as the case may be, the following provisions be included in Chapter VI of the Proposals:

> "The Security Council shall be composed of one Representative or Delegate of each of the thirteen members of the Organization. The Representatives or Delegates of the United States of America, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the Republic of China and France shall have permanent seats. The General Assembly shall elect eight states to fill the non-permanent seats, three of which shall be occupied by Latin American states, elected by exclusive vote of such member countries of the Assembly. These eight states shall be elected for a term of two years; four of them to be retired each year and not be elegible for immediate reelection. In the first election of non-permanent members, the General Assembly shall select four members for a term of one year, and four for a term of two years.
>
> "Responsibility for the maintenance of international peace and security, given to the Security Council, shall entail the obligation of the latter to submit to the consideration of the General Assembly periodical and special reports in which it should render a detailed account, with reasons, of all its actions and decisions.
>
> "The General Assembly should, correlatively, have the obligation of studying these reports and approving or disapproving them either partly or wholly, according to its free judgment, and it should, furthermore, have the power to address recommendations or votes to the Security Council for the complete observance of the duties inherent in its responsibility to preserve international peace and security
>
> "In fulfillment of the duties inherent in its responsibility to preserve international peace and security, the Security Council shall not astablish or modify principles or rules of law but should respect, cause to be respected, and apply the principles of existing law.

> "All decisions of the Security Council, whatever may be the subject dealt with, shall require the affirmative vote of eight of its members for approval.
>
> "Members of the Council who are parties to a dispute or controversy, the cognizance of which directly or indirectly devolves upon the Council itself, shall refrain from voting on decisions which the latter takes, in accordance with its powers and authority established in Chapter VIII of the Proposals, in connection with such dispute or controversy."

International Court of Justice

The provisions for an international court of justice are embodied in Chapter VII of the Proposals.

Item 2 of that Chapter provides that "the Court should be constituted and should function in accordance with a statute which should be annexed to and be a part of the Charter of the Organization," and the Delegation of Ecuador, in supporting such a laudable purpose, submits to the consideration of the San Francisco Conference the following suggestions and proposals in regard to those provisions in the statute:

1. The Delegation of Ecuador, in considering the alternative set forth in Item 3 of Chapter VII of the Dumbarton Oaks Proposals in the sense that the Statute of the Permanent Court of International Justice be kept in force with the incorporation of desirable amendments, or that a new Statute be drawn up, in the preparation of which the Statute of the Court named should be used as a basis, considers desirable to endorse the first of these alternatives, since this would save time and effort employed in the extensive task of drawing up a new statute, and would permit utilizing all those parts of the present Statute which experience has recommended as appropriate to the new world situation, and eliminating, modifying or replacing all others which are found to be incompatible with it or with the new ideals of the Law of Nations;

2. The Delegation of Ecuador endorses the idea of the existence of a Court of Justice of universal character, on the condition that in its statute there be established the

necessary provisions for coordinating it with courts of justice of continental or regional nature which may be organized in the future, whether the latter shall have exclusive jurisdiction for hearing and deciding in single and exclusive instance continental or regional matters, or whether they are given jurisdiction to hear and decide such matters without prejudice to the possibility that appeals may be made against their decision to the Court of Justice of universal character;

3. All members of the general International Organization shall be ipso facto parties to the Statute of the Permanent Court of International Justice, and as regards States which are not members of the Organization, the General Assembly shall determine the conditions to be met for admission;

4. A total revision should be made of the system established in the existing Statute for the election of members of the court, with the object of making the composition of this high organ faithfully and equitably suited to the requirement that all regional or sub-regional groups of States shall be represented on an equal basis in it;

5. The jurisdiction of the court shall comprise all disputes between the states, whatever their nature, whenever all means for solution provided for in the charter of the general international organization have been exhausted without a final settlement of the question being reached, provided that the right of the states involved in a controversy to submit such controversy at any time and by direct means to the Court of Justice is not jeopardized;

6. The court is empowered to decide definitively all questions regarding the exercise of its own jurisdiction;

7. The court has also power to decide definitively whether the matter of a controversy submitted to its jurisdiction and judgment is of a national or international nature;

8. The jurisdiction of the court shall be mandatory with respect to States which are parties to a controversy settled by the Court, by compulsory action, if necessary, enforced by the body or bodies empowered to make use of it within the general international organization;

9. It is necessary to include after item 3 of article 38 of the existing statute a provision as follows:

> "International customs and principles of law, either continental or regional, applicable to controversies between states belonging to the continent or region involved;" and

10. The official languages of the court shall be French, English and Spanish.

Maintenance of International Peace and Security, and Prevention and Suppression of Aggression.

Chapter VIII of the Proposals deals with the maintenance of international peace and security and the prevention and suppression of aggression.

This chapter is divided into three sections: A, "pacific settlement of disputes"; B, "determination of threats to the peace or of acts of aggression and action with respect thereto"; C, "regional arrangements."

Section A provides for the progressive system of pacific settlement of international disputes beginning with the initial investigation of such disputes by the Council; following up with the obligation of the parties to seek a settlement by means of negotiation, conciliation, arbitration, or judicial settlement, with the respective recommendation by the Council for settlement by such means, and including the power devolving upon the latter organ to recommend adequate procedures or methods at any stage.

Item 6 of this section provides that "justiciable disputes should normally be referred to the International Court of Justice." Item 7 provides that "the provisions of paragraphs one to six should not apply to the situations or disputes arising out of matters which by international law are solely within the domestic jurisdiction of the state concerned."

The first observation to be made on the chapter in question refers to item 2 which provides that "any state, whether a member of the organization or not, may bring any such dispute or situation to the attention of the General Assembly or of the Security Council.

Pursuant to this provision any state is free to elect to submit its controversy to the Assembly or to the Council, for which reason the necessary uniformity in the system should be retained, by giving to the Assembly the same power which this section vests upon the Council.

It would therefore be desirable that in the respective item after the words "the Security Council" the following be inserted; "or the General Assembly".

In order to avoid a situation in which the Council and the Assembly would both have cognizance of a given question, it should be stated that the jurisdiction would fall to either of these organs, whichever was the first to take cognizance of it.

Under item 3 of the same section, as stated above, there are stated in accordance with their logical and normal order the means to which the member states are required to resort to for the solution of their international differences, doing so on their own volition or upon recommendation of the Security Council.

Among such means conciliation is clearly stated, since conciliation is an elastic mean capable of being adapted to all faces and aspects of the controversy through the play of psychological elements and the application of the criteria of equity, for which reason it enjoys a privileged position amongst all others.

It will be therefore, highly desirable that the delegations to the San Francisco Conference consider the need to confer upon such a method a structure and a positive procedure of implementation within the international order.

The Delegation of Ecuador, fully cognizant of this imperative necessity, proposes that there be inserted after the item in question another item providing that the General Assembly should approve by a two-third vote of its members a statute for the creation of continental or regional commissions charged with encouraging by all the possible uses of the procedure of conciliation, the effective settlement of differences or controversies of a political nature arising between states belonging to the respective continents or regions.

As it might be argued against this initiative that it devolves upon the states of such continents or regions to agree separately on conventions or instruments setting forth or perfecting the procedure of conciliation, apart from the universal organization proposed, such an objection could easily be refuted by the statement that the Delegation of Ecuador has no other purpose in making the suggestion than to make use of the prestige and moral authority of this organization in order to establish such a powerful means of settlement of foreign disputes with a feeling of vivid realism in all the latitudes of the civilized world.

In this manner the universal juridical order would extend to the continental regional juridical order by means of such commissions which, subject to the Assembly and representing thus the whole organized magna civitas, would have the power to act promptly and correctly within the local boundaries of its jurisdiction in all litigations or controversies that might endanger the peace and security of the states.

Naturally the basis for the composition of such commissions would be subject to the requirement that they should include qualified individuals from the respective continents or regions, so that, with due knowledge of their problems and realities, together with the necessary intellectual background, they might perform their lofty duties.

It is also necessary to change item 6 of this section in order that all kinds of disputes between the states may be regarded as proper for submission to the Court of International Justice, as stated by the Delegation of Ecuador in its recommendations concerning the statute of the Court.

It would be desirable to add an item in the same section stating that the International Court of Justice, at the request of one or all parties involved in a dispute, or of the Security Council, or of the General Assembly, is empowered to decide whether the question of such a controversy is of international character or is a matter falling under the domestic jurisdiction of any of the parties.

Finally, the Delegation of Ecuador considers it advisable to add another item under section C (Regional arrangements) of chapter VIII, which would give recognition to the existence and individuality of the inter-American regional system and its compatibility with the world organization.

In accordance with the foregoing observations, the Delegation of Ecuador proposes that the following provisions be included in chapter VIII of the proposals:

> "In all cases where the Security Council and the General Assembly have the same powers and duties for the pacific solution of international disputes, the jurisdiction will be vested in one of the two organs, whichever was first to take cognizance of such dispute".

> "The General Assembly shall approve by the affirmative vote of a two-thirds majority of its members a statute providing for the establishment of continental

> or regional commissions dependent upon it and charged with promoting and obtaining, through the procedure of conciliation, a settlement of the differences or controversies of a political nature which might arise between the States belonging to the respective continents or regions.
>
> "All disputes between the States, whatever their nature, are justiciable before the Court of International Justice.
>
> "The International Court of Justice, at the request of one or all the parties involved in the dispute, or of the Security Council, or of the General Assembly, shall decide whether the question of the dispute is of an international nature or whether it falls under the domestic jurisdiction of one of the litigant States.
>
> "The existence of the inter-American regional system is recognized as a historic, political and geographic structure ruled by custom and law embodied in the instruments signed between the republics of the Western Hemisphere, and equipped with organs adequate to the realization of its purposes for international peace, security and justice coinciding with those pursued by the organization established under this Charter."

International cooperation in economic and social problems.

Chapter IX of the Proposals includes the provisions for international cooperation in respect to economic and social problems, and those of a humanitarian character in general, in order to promote respect for human rights and fundamental freedoms.

Within this cooperative scope, the Organization "should facilitate the solution" of such grave problems by conferring the responsibility for the fulfilment of the pertinent duties upon the General Assembly and subordinating the authority of the latter to an organ which would be called "Economic and Social Council."

This defines the purposes and relations of such cooperation in Section A of this Chapter, and Sections B, C, and D deal respectively with the composition of the Economic and Social Council, its system of election, its functions and powers, and its organization and procedure.

The Delegation of Ecuador, pursuant to its recommendations formulated in regard to Chapter IV of the Proposals on Principal Organs of the new international structure, renews its hope that provisions leading to the creation of a new organ which would be called "Educational and Cultural Council" may be drawn up.

The principal concern of this organ would be to promote the "international spirit" through the interchange, reciprocal acquaintance and unification of plans, programs, methods and systems of teaching, and at the same time of the ethical, intellectual and artistic values of the human culture within a process of universalization which, while respecting autonomous national or regional forms of such high manifestations, encourage at the same time the essential sentiments of concord and peace between the peoples, leading to the moral unity of mankind and strengthening the still unripe international conscience of the countries of the earth.

The establishment of this indispensable organ could coincide in its original outline with the structure drawn up for the Economic and Social Council, after the necessary adaptations.

The Delegation of Ecuador therefore proposes the inclusion of this organ within the charter, by means of a chapter to be inserted after Chapter X, which would be given the title "Provisions for International Cooperation in regard to educational and cultural problems", and it reserves the presentation of the draft for this chapter to the San Francisco Conference.

Clause for amendment of the Charter.

The clause for amendment of the Charter is included in Chapter XI of the proposals, and its text states that "amendments should come into force for all members of the Organization, when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional process by the members of the Organization having permanent membership on the Security Council and by the majority of the other members of the Organization."

In place of the text quoted the Delegation of Ecuador submits to the consideration of the Conference the following text:

"The General Assembly shall, upon the initiative of any of its members, or of the Security Council, amend the Charter of the Organization by the affirmative vote of two-thirds of the member States. The approved amendments shall come into force and shall be compulsory upon all members of the Organization after ratification in accordance with their constitutional processes by a number equivalent to two-thirds of the membership."

Second Part

DELEGATION OF ECUADOR TO THE UNITED NATIONS CONFERENCE ON INTERNATIONAL ORGANIZATION

COMMENTS AND AMENDMENTS TO THE PROPOSALS FOR THE ESTABLISHMENT OF A GENERAL INTERNATIONAL ORGANIZATION AS SUBMITTED BY THE DUMBARTON OAKS CONFERENCE

* * *

TEXT OF PROPOSALS FOR THE ESTABLISHMENT OF A GENERAL INTERNATIONAL ORGANIZATION

ORIGINAL TEXT	AMENDMENTS
There should be established an international organization under the title of The United Nations, the Charter of which should contain provisions necessary to give effect to the proposals which follow.	The Delegation of Ecuador is of the opinion that the proper name for the new organization should be "International Juridical Association" or "Juridical Community of States", or another similar denomination which would fully translate its true character and nature.
Chapter I. Purposes	
The purposes of the Organization should be:	The Delegation of Ecuador considers that, while retaining the text of the various items included in it, the following should be set forth as a preliminary paragraph of Chapter I:
1. To maintain international peace and security; and to that end to take effective collective measures for the prevention and removal of threats to the peace and the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means adjustment or settlement of international disputes which may lead to a breach of the peace;	"To maintain international peace and security through the adoption of collective measures which render effective the rule of justice and law among States."
2. To develop friendly relations among nations and to take other appropriate measures to strengthen universal peace;	
3. To achieve international cooperation in the solution of international economic, social and other humanitarian problems; and	3. "To achieve international cooperation in the solution of international economic, social, educational, cultural and other humanitarian problems; and"
4. To afford a center for harmonizing the actions of nations in the achievement of these common ends.	

Chapter II. Principles

In pursuit of the purposes mentioned in Chapter I the Organization and its members should act in accordance with the following principles:

1. The Organization is based on the principle of the sovereign equality of all peace-loving states.

1. "The juridical equality of all sovereign States as an expression of their identical significance before the common law which governs their reciprocal relations and as a means for correcting and repairing any practical or political inequality which may occur between them;

"The Supremacy of moral law as the guiding principle of Positive International Law which governs relations between States;

"The fundamental respect for the internal or external personality and sovereignty of States, in so far as it is not incompatible with the rights and power of the International Community, juridically represented by the International Organization established by the present Charter;

"The outlawing of bad faith as a rule of conduct in international relations;

"The publicity of foreign relations and the reciprocal obligation of States to maintain their means of international communication and information open;

"The nullity of the acquisition of territories through the exercise of any moral or physical force;

	"The repudiation and prohibition of all direct or indirect intervention, whatever may be its cause, on the part of one or more States in the internal or external affairs of another or others, without prejudice to the rights and powers vested in the Organization by the present Charter, to continental or regional pacts or instruments, and to freely concluded treaties and conventions; "The declaration that an attempt by a State against the territorial integrity or inviolability, against the sovereignty or political independence of another State shall be considered as an act of aggression against all the States which constitute the International Community; "The organization guarantees the territorial integrity and political independence of all the member States, as well as respect for treaties, within the limitations imposed by the readjustments and revisions which may be required by the evolution of the conditions of international comity."
2. All members of the Organization undertake, in order to ensure to all of them the rights and benefits resulting from membership in the Organization, to fulfill the obligations assumed by them in accordance with the Charter.	
3. All members of the Organization shall settle their disputes by peaceful means in such manner that international peace and security are not endangered.	3. "The obligation which is incumbent upon States to use pacific means for the solution of their international differences, whatever may be the nature of the latter";

4. All members of the Organization shall refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the Organization.	4. "The formal repudiation by the States of the exercise of moral or physical force in their mutual relations, unless such measures are the result of action agreed upon by the International Organization, within its international police system."
5. All members of the Organization shall give every assistance to the Organization in any action undertaken by it in accordance with the provisions of the Charter.	
6. All members of the Organization shall refrain from giving assistance to any state against which preventive or enforcement action is being undertaken by the Organization.	
The Organization should ensure that states not members of the Organization act in accordance with these principles so far as may be necessary for the maintenance of international peace and security.	
	7. "The Organization recognizes that, in the name of higher principles of justice and humanity, it is necessary to assure to human beings a system of international protection of their essential rights, enumerated and defined in the Declaration which the General Assembly shall formulate in this regard."
Chapter III. Membership	
1. Membership of the Organization should be open to all peace-loving states.	1. "The Members of the Organization are those States which have subscribed without any reservation the present Charter and have subsequently ratified it.

"All the present sovereign States of the world or those which may subsequently become so, shall have the power to apply for admission as Members of the Organization and shall be admitted in effect if they possess the qualifications and fill the requirements which shall be determined in due course by a vote of two-thirds of the General Assembly.

2. "No Member State may be expelled from the Organization or may voluntarily withdraw therefrom."

Chapter IV. Principal Organs

1. The Organization should have as its principal organs:

a. A General Assembly;
b. A Security Council;
c. An International Court of Justice; and
d. A Secretariat

1. "The principal organs of the Institution established by the present Charter are the following:

a. The General Assembly;
b. The Security Council;
c. The Permanent International Court of Justice;
d. The Economic and Social Council;
e. The Educational and Cultural Council, and
f. The Secretariat."

2. The Organization should have such subsidiary agencies as may be found necessary.

Chapter V. The General Assembly

SECTION A. COMPOSITION. All members of the Organization should be members of the General Assembly and should have a number of representatives to be specified in the Charter.

SECTION B. FUNCTIONS AND POWERS. 1. The General Assembly should have the right to consider the general principles of cooperation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments; to discuss any questions relating to the maintenance of international peace and security brought before it by any member or members of the Organization or by the Security Council; and to make recommendations with regard to any such principles or questions. Any such questions on which action is necessary should be referred to the Security Council by the General Assembly either before or after discussion. The General Assembly should not on its own initiative make recommendations on any matter relating to the maintenance of international peace and security which is being dealt with by the Security Council.	**The Delegation of Ecuador** is of the opinion that before paragraph 1 of Section B there should be included the following: "The General Assembly is the organ representing directly the Organization."
2. The General Assembly should be empowered to admit new members to the Organization upon recommendation of the Security Council.	2. "The General Assembly shall determine, at a time which it may consider proper, the qualifications and conditions to be required of sovereign States which are not members of the Organization for admission to membership, and it is empowered to pass on such admissions, requiring in either case a majority of two-thirds of the votes of the Assembly."
3. The General Assembly should, upon recommendation of the Security Council, be empowered to suspend from the exercise of any rights or privileges of membership any member of the Organization against which preventive or enforcement action shall have been taken by the Security Council. The exercise of the	3. "The General Assembly, by the vote of two-thirds of its members, and upon recommendation of the Security Council, or without such recommendation, may suspend the exercise of any right or privilege inherent to membership by any State which is a member of the Organization and against which the Security

rights and privileges thus suspended may be restored by decision of the Security Council. The General Assembly should be empowered, upon recommendation of the Security Council, to expel from the Organization any member of the Organization which persistently violates the principles contained in the Charter.

4. The General Assembly should elect the non-permanent members of the Security Council and the members of the Economic and Social Council provided for in Chapter IX. It should be empowered to elect, upon recommendation of the Security Council, the Secretary-General of the Organization. It should perform such functions in relation to the election of the judges of the international court of justice as may be conferred upon it by the statute of the court.

5. The General Assembly should apportion the expenses among the members of the Organization and should be empowered to approve the budgets of the Organization.

6. The General Assembly should initiate studies and make recommendations for the purpose of promoting international cooperation in political, economic and social fields and of adjusting situations likely to impair the general welfare.

7. The General Assembly should make recommendations for the coordination of the policies of international economic, social, and other specialized agencies brought into relation with the Organization in accordance with agreements between such agencies and the Organization.

Council has adopted preventive or compulsive action, or whenever grave circumstances warrant, in the judgment of the Assembly, that such suspension be enforced. The exercise of the rights and privileges thus suspended may be restored by the Assembly by the same majority of votes as provided for in this article and upon the recommendation of the Security Council or without such recommendation."

4. "The General Assembly shall, by the vote of two-thirds of its members, elect the non-permanent members of the Security Council, the members of the Economic and Social Council, the members of the Educational and Cultural Council and the Secretary General of the Organization. In regard to the election of the judges of the Permanent International Court of Justice the Assembly shall perform the duties assigned to it by the Statute of the Court."

questions to be decided by a two-thirds majority, the decisions of the General Assembly should be made by a simple majority vote.

SECTION D. PROCEDURE. 1. The General Assembly should meet in regular annual sessions and in such special sessions as occasion may require.

2. The General Assembly should adopt its own rules of procedure and elect its President for each session.

3. The General Assembly should be empowered to set up such bodies and agencies as it may deem necessary for the performance of its functions.

Chapter VI. The Security Council

SECTION A. COMPOSITION. The Security Council should consist of one representative of each of eleven members of the Organization. Representatives of the United States of America, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the Republic of China, and, in due course, France, should have permanent seats. The General Assembly should elect six states to fill the non-permanent seats. These six states should be elected for a term of two years, three retiring each year. They should not be immediately eligible for reelection. In the first election of the non-permanent members three should be chosen by the General Assembly for one-year terms and three for two-year terms.

"The Security Council shall be composed of one representative or delegate of each of thirteen members of the Organization. The representatives or Delegates of the United States of America, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the Republic of China, and France shall have permanent seats. The General Assembly shall elect eight States to fill the non-permanent seats, three of which shall be occupied by Latin American States, elected by the exclusive vote of such member countries of the Assembly. These eight States shall be elected for a term of two years, four of them to be retired each year and not be eligible for immediate reelection. In the first election of non-permanent members, the General Assembly shall select four members for a term of one year, and four for a term of two years."

SECTION B. PRINCIPAL FUNCTIONS AND POWERS.

1. In order to insure prompt and effective action by the Organization, members of the Organization should by the Charter confer on the Security Council primary responsibility for the maintenance of international peace and security and should agree that in carrying out these duties under this responsibility it should act on their behalf.

2. In discharging these duties the Security Council should act in accordance with the purposes and principles of the Organization.

3. The specific powers conferred on the Security Council in order to carry out these duties are laid down in Chapter VIII.

4. All members of the Organization should obligate themselves to accept the decisions of the Security Council and to carry them out in accordance with the provisions of the Charter.

5. In order to promote the establishment and maintenance of international peace and security with the least diversion of the world's human and economic resources for armaments, the Security Council, with the assistance of the Military Staff Committee referred to in Chapter VIII, Section B, paragraph 9, should have the responsibility for formulating plans for the establishment of a system of regulation of armaments for submission to the members of the Organization.

	6. Responsibility for the maintenance of international peace and security, vested upon the Security Council, shall entail the obligation of the latter to submit to the consideration of the General Assembly periodical and special reports in which it should render a detailed account, with reasons, of all its actions and decisions.
	"The General Assembly should, correlatively, have the obligation of studying these reports and approving or disapproving them partly or wholly, according to its free judgment, and it should, furthermore, have the power to address recommendations or votes to the Security Council for the complete observance of the duties inherent in its responsibility to maintain international peace and security.
	7. "In the fulfillment of the duties inherent in its responsibility to maintain international peace and security, the Security Council shall not establish or modify principles or rules of law but shall respect and enforce and apply the principles or rules of existing law."
SECTION C. VOTING. 1. Each member of the Security Council should have one vote.	
2. Decisions of the Security Council on procedural matters should be made by an affirmative vote of seven members.	2. "All decisions of the Security Council, whatever may be the subject dealt with, shall require the affirmative vote of eight of its members for approval."

3. Decisions of the Security Council on all other matters should be made by an affirmative vote of seven members including the concurring votes of the permanent members; provided that, in decisions under Chapter VIII, Section A, and under the second sentence of Paragraph 1 of Chapter VIII, Section C, a party to a dispute should abstain from voting.

SECTION D. PROCEDURE. 1. The Security Council should be so organized as to be able to function continuously and each state member of the Security Council should be permanently represented at the headquarters of the Organization. It may hold meetings at such other places as in its judgment may best facilitate its work. There should be periodic meetings at which each state member of the Security Council could if it so desired be represented by a member of the government or some other special representative.

2. The Security Council should be empowered to set up such bodies or agencies as it may deem necessary for the performance of its functions including regional subcommittees of the Military Staff Committee.

3. The Security Council should adopt its own rules of procedure, including the method of selecting its President.

4. Any member of the Organization should participate in the discussion of any question brought before the Security Council whenever the Security Council considers that the interests of that

3. "Members of the Council who are parties to a dispute or controversy, the cognizance of which directly or indirectly devolves upon the Council itself, shall refrain from voting on decisions which the latter takes, in accordance with its powers and authority established in Chapter VIII of the Proposals, in connection with such dispute or controversy."

4. If, nevertheless, parties to a dispute of the nature referred to in paragraph 5 above fail to settle it by the means indicated in that paragraph, they should obligate themselves to refer it to the Security Council. The Security Council should in each case decide whether or not the continuance of the particular dispute is in fact likely to endanger the maintenance of international peace and security, and, accordingly, whether the Security Council should deal with the dispute, and, if so, whether it should take action under paragraph 5.	4. If, nevertheless, the parties to a dispute of the nature referred to in paragraph 3 above fail to settle it by the means indicated in that paragraph, they shall obligate themselves to refer it to the Security Council or to the General Assembly. The Security Council or the General Assembly shall in each case decide whether or not the continuance of the particular dispute is in fact likely to endanger the maintenance of international peace and security, and, accordingly. whether the Security Council or the General Assembly shall take action under paragraph 5."
5. The Security Council should be empowered, at any stage of a dispute of the nature referred to in paragraph 3, above, to recommend appropriate procedures or methods of adjustment.	5. "The Security Council of the General Assembly, at any stage of a dispute of the nature referred to in paragraph 3 above, to recommend appropriate procedures or methods of adjustment." "The General Assembly shall approve by the affirmative vote of a two-thirds of its members a statute providing for the establishment of continental or regional commissions charged with promoting and obtaining, through the procedure of conciliation, a settlement of the differences or controversies of a political nature which might arise between the States belonging to the respective continents or regions." "In all cases in which the Security Council and the General Assembly have equal functions and powers for the peaceful

	settlement of international controversies, the jurisdiction shall be vested upon either of the two organs, whichever was the first to take cognizance of a controversy."
6. Justiciable disputes should normally be referred to the international court of justice. The Security Council should be empowered to refer to the court, for advice, legal questions connected with other disputes.	6. "All disputes between the States, whatever their nature, are justiciable before to the International Court of Justice. The Security Council or the General Assembly shall be empowered to refer to the Court, for advice, questions brought up in any controversy."
7. The provisions of paragraph 1 to 6 of Section A should not apply to situations or disputes arising out of matters which by international law are solely within the domestic jurisdiction of the state concerned.	"The International Court of Justice, at the request of one or all of the parties involved in the dispute, or of the Security Council or of the General Assembly shall decide whether the question of the dispute is of an international nature or whether it falls under the domestic jurisdiction of one of the litigant States."
SECTION B. DETERMINATION OF THREATS TO THE PEACE OR ACTS OF AGGRESSION AND ACTION WITH RESPECT THERETO. 1. Should the Security Council deem that a failure to settle a dispute in accordance with procedures indicated in paragraph 3 of Section A, or in accordance with its recommendations made under paragraph 5 of Section A, constitutes a threat to the	

maintenance of international peace and security, it should take any measures necessary for the maintenance of international peace and security in accordance with the purposes and principles of the Organization.

2. In general the Security Council should determine the existence of any threat to the peace, breach of the peace or act of aggression and should make recommendations or decide upon the measures to be taken to maintain or restore peace and security.

3. The Security Council should be empowered to determine what diplomatic, economic, or other measures not involving the use of armed force should be employed to give effect to its decisions, and to call upon members of the Organization to apply such measures. Such measures may include complete or partial interruption of rail, sea, air, postal, telegraphic, radio and other means of communication and the severance of diplomatic and economic relations.

4. Should the Security Council consider such measures to be inadequate, it should be empowered to take such action by air, naval or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade and other operations by air, sea or land forces of members of the Organization.

5. In order that all members of the Organization should contribute to the maintenance of international peace and security, they should

undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements concluded among themselves, armed forces, facilities and assistance necessary for the purpose of maintaining international peace and security. Such agreement or agreements should govern the numbers and types of forces and the nature of the facilities and assistance to be provided. The special agreement or agreements should be negotiated as soon as possible and should in each case be subject to approval by the Security Council and to ratification by the signatory states in accordance with their constitutional processes.

6. In order to enable urgent military measures to be taken by the Organization there should be held immediately available by the members of the Organization national air force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action should be determined by the Security Council with the assistance of the Military Staff Committee within the limits laid down in the special agreement or agreements referred to in paragraph 5 above.

7. The action required to carry out the decision of the Security Council for the maintenance of international peace and security should be taken by all the members of the Organization in cooperation or by some of them as the Security Council may determine. This undertaking should be carried out by the members of the Organization by their own action and through action

4. "The existence of the inter-American regional system is hereby recognized as a historic, political and geographic structure ruled by custom and law embodied in the instruments signed between the republics of the Western Hemisphere, and equipped with organs adequate to the realization of its purposes of international peace, security and justice consistent with those pursued by the Organization established under this Charter."

Chapter IX. Arrangements for International Economic and Social Cooperation

SECTION A. PURPOSE AND RELATIONSHIPS. 1. With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations, the Organization should facilitate solutions of international economic, social and other humanitarian problems and promote respect for human rights and fundamental freedoms. Responsibility for the discharge of this function should be vested in the General Assembly and, under the authority of the General Assembly, in an Economic and Social Council.

2. The various specialized economic, social and other organizations and agencies would have responsibilities in their respective fields as defined in their statutes. Each such organization or agency should be brought into relationship with the Organization on terms to be determined by agreement between

the Economic and Social Council and the appropriate authorities of the specialized organization or agency, subject to approval by the General Assembly.

SECTION B. COMPOSITION AND VOTING. The Economic and Social Council should consist of representatives of eighteen members of the Organization. The states to be represented for this purpose should be elected by the General Assembly for terms of three years. Each such state should have one representative, who should have one vote. Decisions of the Economic and Social Council should be taken by simple majority vote of those present and voting.

SECTION C. FUNCTIONS AND POWERS OF THE ECONOMIC AND SOCIAL COUNCIL. 1. The Economic and Social Council should be empowered:

a. to carry out, within the scope of its functions, recommendations of the General Assembly;
b. to make recommendations, on its own initiative, with respect to international economic, social and other humanitarian matters;
c. to receive and consider reports from the economic, social and other organizations or agencies brought into relationship with the Organization, and to coordinate their activities through consultations with, and recommendations to, such organizations or agencies;
d. to examine the administrative budgets of such specialized organizations

or agencies with a view to making recommendations to the organizations or agencies concerned;

e. to enable the Secretary-General to provide information to the Security Council;

f. to assist the Security Council upon its request; and

g. to perform such other functions within the general scope of its competence as may be assigned to it by the General Assembly.

SECTION D. ORGANIZATION AND PROCEDURE. 1. The Economic and Social Council should set up an economic commission, and such other commissions as may be required. These commissions should consist of experts. There should be a permanent staff which should constitute a part of the Secretariat of the Organization.

2. The Economic and Social Council should make suitable arrangements for representatives of the specialized organizations or agencies to participate without vote in its deliberations and in those of the commissions established by it.

3. The Economic and Social Council should adopt its own rules of procedure and the method of selecting the President.

Chapter X. The Secretariat

1. There should be a Secretariat comprising a Secretary-General and such staff as may be required. The Secretary-General

should be the chief administrative officer of the Organization. He should be elected by the General Assembly, on recommendation of the Security Council, for such term and under such conditions as are specified in the Charter.

2. The Secretary-General should act in that capacity in all meetings of the General Assembly, of the Security Council, and of the Economic and Social Council and should make an annual report to the General Assembly on the work of the Organization.

3. The Secretary-General should have the right to bring to the attention of the Security Council any matter which in his opinion may threaten international peace and security.

Chapter XI. Amendments

Amendments should come into force for all members of the Organization, when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by the members of the Organization having permanent membership on the Security Council and by a majority of the other members of the Organization.

"The General Assembly shall, upon the initiative of its members, or of the Security Council, amend the Charter of the Organization by the affirmative vote of two-thirds of the member States. The approved amendments shall come into force and shall be compulsory upon all members of the Organization after ratification in accordance with their constitutional processes by a number equivalent to two-thirds of the membership."

Chapter XII. Transitional Arrangements

1. Pending the coming into force of the special agreement or

agreements referred to in Chapter VIII, Section B, paragraph 5, and in accordance with the provisions of paragraph 5 of the Four-Nation Declaration, signed at Moscow, October 30, 1943, the states parties to that Declaration should consult with one another and as occasion arises with other members of the Organization with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security.

2. No provision of the Charter should preclude action taken or authorized in relation to enemy states as a result of the present war by the Governments having responsibility for such action.

Washington, D. C.

October 7, 1944.

JOINT DRAFT AMENDMENT TO CHAPTER VIII, SECTION C, OF THE DUMBARTON OAKS PROPOSALS SUBMITTED BY THE DELEGATIONS OF CHILE, COLOMBIA, COSTA RICA, ECUADOR, AND PERU IS CONTAINED IN A SEPARATE DOCUMENT AT THE END OF THIS VOLUME.

The United Nations Conference on International Organization

Doc. 2 (ENGLISH)
G/7 (q) (1)
May 5, 1945

GENERAL

AMENDMENTS TO THE DUMBARTON OAKS PROPOSALS

PRESENTED BY THE EGYPTIAN DELEGATION

CHAPTER I

Purposes

Page 1 Parag. 1.

line 3 Add: "in accordance with law and justice" after "to maintain international peace and security".

line 15 After Parag. 3.

line 15 Insert a new parag.:

"To promote respect of human rights and fundamental freedoms".

After Parag. 4.

Insert two new parag.:

a) "To pursue the aims and to conform to the principles embodied in the joint declaration dated August 14, 1942 and known as the Atlantic Charter".

b) "To determine, define, codify and develop the rules of international law and international morality".

Comment - The Principles laid down in the "Atlantic Charter" and to which all the United Nations have adhered in the United Nations' Declaration

be to make the Organization include in due time all the members of the Community of Nations. This aim cannot materialize at present, but it would be suitable to avoid all provisions referring to a limitation in membership for the future, as well as any disposition aiming at expulsion of Members.

CHAPTER IV

Principal Organs

line 10 Add to the Principal Organs after "a Security Council":

c. "An Economic and Social Council".

Comment - In view of the importance of economic and social problems with regard to international peace and welfare, the Egyptian Delegation proposes to consider the Economic and Social Council as one of the principal organs of the Organization on equal footing with its other organs. This proposal explains various amendments suggested by the Egyptian Delegation in subsequent Chapters.

CHAPTER V

The General Assembly

Page 4 Section B - Functions and Powers.

line 1 Add after "including the principles governing disarmament and the regulation of armaments" the following:

"to advise on the request of any member concerned the reconsideration of treaties which have become inapplicable and the consideration of international conditions whose continuance might

endanger the peace; to discuss any other questions relating to the maintenance of international peace and security brought before it by any Member or Members of the Organization or by the Security Council, and to make recommendations with regard to any such principles or questions. Any such questions on which action is necessary should be referred to the Security Council".

Comment - The latter part of parag. 1 should be omitted so as to be in keeping with the proposition made by the Egyptian Delegation in Chapter VIII, Section B that decisions of the Security Council on enforcement measures should be brought before the General Assembly for review.

line 13 Parag. 2.

Parag. 2 should read as follows:

"The General Assembly shall be empowered, after taking the advice of the Security Council, to admit new Members to the Organization".

line 16 Parag. 3.

Parag. 3 should read as follows:

"Any Member of the Organization against whom preventive or enforcement measures have been decided, shall be deemed suspended from the exercise of any rights or privileges of membership. The General Assembly shall be empowered to restore any suspended Member in his rights and privileges, after taking the advice of the Security Council".

Page 5 Parag. 4.

line 6 After the members of the Economic and Social Council omit the words "Provided for in Chapter IX".

Page 5

Parag. 6 and 7.

line 16

Amalgamate into a single parag. to read as follows:

"The General Assembly shall supervise the policy of promoting international cooperation in political, legal, economic, social and humanitarian fields; and of adjusting situations likely to impair the general welfare".

Page 6

lines 12, 13 and 14

Section C - Voting.

Replace "suspension of the exercise of rights and privileges of members and expulsion of members" by "restoration in their rights and privileges of suspended Members".

Section D - Procedure.

line 20

Parag. 1 should read as follows:

"The General Assembly shall meet in regular annual sessions and in such special sessions as provided for in this Chapter, or as occasion may require".

CHAPTER VI

The Security Council

Page 7

line 7

Section A - Composition

Should be amended as follows:

"The Security Council shall consist of one representative of each of fourteen members of the Organization. Representatives of the United States of America, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the Republic of China, and in due course, France, shall have permanent seats. The remaining States shall be grouped into nine zones. The General Assembly shall elect one Member State to represent each zone, for a term of three years, three States retiring every year. They shall not be immediately eligible for reelection. In the first election of the non-permanent members three shall be chosen by the General Assembly for

one-year terms, three for two-year terms and three for three-year terms".

Comment - The Smaller Powers should be entitled to a larger representation in the Council, and the number of Members raised to fourteen. In an Organization which exerts its functions and powers over the whole surface of the globe, no great portion in the world should be left without a share in the work of the Council.

Page 7
Line 20
Page 8
Line 10

Section B - Principal Functions and Powers.

Comment - Paragraphs 1 and 4 of this Section should be modified to conform with the amendment to Chapter VIII, Section B, paragraph 4, proposed by the Egyptian Delegation with the object of referring to the examination of the General Assembly any decisions taken by the Security Council, implying the adoption of enforcement measures.

Page 9
Line 3

Section C - Voting.

Comment - The Egyptian Delegation believes that some changes in the "veto provisions" as drafted in Yalta, might inspire greater confidence in the democratic aims of the New World Organization. It is hoped that the Great Powers shall see their way to reconsider the veto plan as presently contemplated. At any rate, it is the opinion of the Egyptian Delegation that the voting procedure of the Security Council should be amended to the effect of allowing the Council to take decisions by a majority including only Four of the Five Permanent Members, on all matters where the latter are not involved. The dissenting Permanent Member, who has not acquiesced to the adoption of the enforcement

measures, may not have to participate in the general action, but should refrain from giving any support or assistance to the State against which enforcement measures have been decided.

Parag. 2 and 3.

Should read as follows:

line 5 "2. Decisions of the Security Council on matters of procedure should be made by an affirmative vote of eight members".

"3. Decisions of the Security Council on all other matters shall be made by an affirmative vote of eight members including the concurring votes of the Permanent Members or the votes of at least four of them, being understood that a party to a dispute should abstain from voting when that dispute is under examination".

Page 10 Section D - Procedure.

line 1 Parag. 2.

The nature and the functions of the bodies and agencies referred to ought to be precised and defined.

CHAPTER VIII

Arrangements for the Maintenance of International Peace and Security Including Prevention and Suppression of Aggression

Section B - Determination of Threats to the Peace or Acts of Aggression and Action with Respect Thereto.

Page 13 Line 22 Parag. 2.

Comment - A general definition of "aggression" should be given.

Page 14 line 17 Add after Parag. 4 a new paragraph, reading as follows:

"Should the Security Council take the

action referred to in paragraph 4, it should within reasonable limits of time submit the matter for review to the General Assembly at a special meeting. Only a vote of three-quarters of the Members of the General Assembly could suspend or cancel the decisions taken by the Security Council".

Comment - The importance of the decision and the fact that all Member States would be obligated to contribute to the execution of such decisions by their armed forces or by according facilities, amply justifies the right of the Assembly to review such decisions. On the other hand, the deliberations of the Assembly will be the expression of the world public opinion on the matter.

Page 17 Line 10 Section C - Regional Arrangements.

Comment - The Dumbarton Oaks Proposals refer to regional arrangements inasmuch as these aims are consistent with the purposes of the General Organization. These regional groups shall constitute a considerable asset, acting in full cooperation with the Security Council, in the maintenance of peace, each in their particular zone. But the expression "regional arrangements" has not always been clearly understood and, in the opinion of the Egyptian Delegation, should therefore be more clearly defined.

Judging by the wording, the nature and the purport of the provisions of this Section of the Proposals, the term "regional arrangement" implies (a) the neighborhood of the States, tied by such an arrangement; (b) the permanent character of the arrangement; (c) cultural, racial or spiritual affinities; (d) some

organism common to the whole group. The Proposals imply these characteristics by the reference to regional action and regional agencies with specific attributions within their particular circumscription, such as arbitration and enforcement measures.

It would therefore be wrong to extend the term "regional arrangement" used in Chapter VII, Section C of the Proposals to alliances of a purely military character between two or several Powers. Military alliances have nothing in common with regional arrangements; they are the outcome of fortuitous political circumstances and do not generally rest on such affinities as make up for these arrangements. These alliances, essentially temporary, even when concluded for long periods, are an expression of the old order based on a balance of power. The New Organization is to maintain peace by collective measures, and to do away with the old order. A more precise definition of regional arrangements should therefore be given, to discard any comparison with ordinary military alliances. At any rate, the word "permanent" should be added before "Regional Arrangements" on page 17, line 10.

It also appears that the provisions concerning regional arrangements should be detached from the Chapter on Maintenance of International Peace and Security to make a Separate Chapter. The advantages to be derived of these arrangements are not limited to the maintenance of Peace, and the peaceful settlement of regional disputes, but can also prove most helpful in promoting economic, social or intellectual cooperation between States, and in fostering the relations of good neighborhood.

Page 18

CHAPTER IX

Arrangements for International Economic and Social Cooperation

This Chapter should become Chapter VII and numbers of subsequent Chapters arranged consequently.

Section A - Purposes and Relationship.

line 10 and following — Parag. 1.

a) Suppress the first phrase (lines 10 to 15)

line 16 and following — b) Modify the next phrase thus:

"There should be specialized economic, legal, social and humanitarian organizations and agencies such as International Labor Organizations, an International Monetary Organization, an International Hygienic Organization, and Organization for Intellectual Cooperation and an International Organization for Food and Agriculture. Existing organizations and agencies of this nature may be brought into relationship with the Organization, etc....

Page 19 — Section B - Composition and Voting.

line 4

line 5 — a) Change "eighteen" to "twenty-four"

line 6 — b) Suppress the two phrases after "Organization" (lines 6, 7, 8, 9) and add instead the following:

"Representatives of the United States of America, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the Republic of China, and, in due course, France, shall have permanent seats. The remaining States shall be grouped into nine zones. The General Assembly shall elect two member States to represent each zone for a term of two years, nine retiring every year. They should not be immediately eligible for reelection. In the first election one of the representatives of each zone shall be chosen

by the General Assembly for one-year term and the other representative for two-year terms". Decisions of the Economic and Social Council should be taken by simple majority vote of those present and voting.

line 12 and following — Section C - Functions and Powers.

Parag. 1.

Should read thus:

"1. The Economic and Social Council shall have the Primary responsibility to determining the social and economic policy of the Organization, under the authority of the General Assembly.

"2. To that effect it shall be empowered:

a) to carry out recommendations of the General Assembly;

b) to make recommendation, on its own initiative, with respect to international, economic, legal, social and other humanitarian matters.

c) to receive and consider reports from the economic, legal, social, etc.....

d) etc. ...

CHAPTER XIII

General Disposition

The Charter of the New World Organization will constitute the supreme law of the International community; it ought to be therefore expressly stipulated in a special Chapter that:

"All prior international obligations incompatible with the Charter shall be abrogated or revised to be brought into harmony with the principles laid down in the Charter."

NOTE: THESE AMENDMENTS ARE IN ACCORDANCE WITH THE GENERAL SUGGESTIONS PRESENTED BY THE EGYPTIAN GOVERNMENT THROUGH THE CHANNEL OF THE STATE DEPARTMENT AND THE SECRETARIAT OF THE CONFERENCE.

The United Nations Conference on International Organization

Doc. 2 (ENGLISH)
G/14(j)
May 5, 1945

GENERAL

Addition to the text of the Dumbarton Oaks Proposals, which the Delegation of El Salvador to the United Nations Conference on International Organization proposes for inclusion as Paragraph 4 (after Paragraph 3) of "Section C- VOTING" of the Dumbarton Oaks Proposals, as complemented at the Crimea Conference.

" 4. In dealing with matters that are not of a procedural nature, if the affirmative vote of seven or more members of the Security Council includes the concurring votes of a majority of the permanent members of the Council, but not the unanimous vote of such permanent members, the Security Council shall refer the matter under consideration to the General Assembly for final decision and shall act in due time in accordance with such a decision of the General Assembly, which in this case will require a two-thirds majority vote. "

The United Nations Conference on International Organization

Doc. 2 (ENGLISH)
G/14 (n)
May 5, 1945

GENERAL

AMENDMENTS TO THE PROPOSALS FOR THE MAINTENANCE OF PEACE AND SECURITY AGREED ON AT THE FOUR POWERS CONFERENCE AT DUMBARTON OAKS SUPPLEMENTED AS A RESULT OF THE CONFERENCE OF YALTA, SUBMITTED BY THE ETHIOPIAN DELEGATION

The Ethiopian Delegation have the honour to submit herewith to the United Nations Conference on International Organization, for its consideration, the following suggested amendments to the Dumbarton Oaks proposals. Reference is made to Doc. 1 G/1 for all citations of provisions of the Dumbarton Oaks proposals.

CHAPTER II

Page 2, paragraph 2

It is proposed that this paragraph be numbered 2A and that an additional paragraph, to be numbered 2B, be inserted, to read as follows:

> "All members of the Organization undertake to respect the independence and territorial integrity of each member of the Organization."

Page 2, paragraph 3

Line 13, it is proposed that following the words "are not endangered" there be added the words "and on the basis of respect for Justice, Treaties, and International Law."

CHAPTER VI

Section C

Page 9, paragraph 3

Line 10, it is proposed that there be inserted, after the

words "Chapter VIII, Section A" the words "and Section B, paragraph 3".

COMMENT

Although the Ethiopian Delegation are of opinion that the right of veto should, in principle, be excluded, bearing particularly in mind the situation where a former enemy might eventually be elected to membership in the Security Council, nevertheless, they feel that general agreement should be reached as to the possibility of imposing diplomatic, economic or other measures not involving the use of armed force.

Section D

Page 10, paragraph 5

Line 16, after the words "relating to the dispute" insert the words "on the same basis as the other party or parties to the dispute".

CHAPTER VIII

Section A

Page 12, paragraph 2

Lines 1 and 2, it is proposed that the words "to the attention of" be replaced by the word "before" and that there be added, following the words "Security Council", the words "for such measures as it may find appropriate."

Page 12, paragraph 3

It is proposed that this paragraph be modified to read as follows:

> "The Parties to any dispute the continuance of which is likely to endanger the maintenance of international peace and security should obligate themselves to seek a solution by negotiation, mediation, conciliation, arbitration or judicial settlement, or other peaceful means of their own choice. The Security Council should call upon the parties to settle their dispute by such means, if it determines that such dispute is of such a nature that its continuance would be likely to endanger the maintenance of international peace and security, without prejudice, however, to the adoption of such other means of settlement as the Security Council may at any time find advisable."

COMMENT

It is believed that this modification is necessary in order to avoid creation of a situation where the Council would be required to withhold consideration of a dispute likely to endanger international peace and security until direct negotiations, mediation, conciliation, arbitration, judicial settlement or other means shall have failed.

Section B

Page 14, paragraph 2

Line 2, it is proposed that there be added to this paragraph an additional sentence, reading as follows:

> "So long as a dispute is subject to the procedure of paragraphs 3, 4 and 5 of the present Section, the parties to the dispute shall resort to no measures of a military character and the Security Council shall take such measures or action as it shall find necessary to ensure the fulfilment of this obligation."

CHAPTER IX

Section C

Page 20

It is proposed that an additional paragraph, to be numbered paragraph 2, be inserted in this Section and that this paragraph read as follows:

> "Any member of the Organization should participate in the discussion of and the voting upon any question brought before the Economic and Social Council whenever said Council considers that the interests of that member of the Organization are specially affected."

It is proposed that there be added an additional Chapter to be numbered Chapter XIII and to consist of two paragraphs reading as follows:

> "1. Every treaty or international engagement entered into hereafter by any member shall be forthwith registered with the Secretariat and shall as soon as possible be published by it. No such treaty or international engagement shall be binding until so registered.

"2. All members jointly and severally agree that this Charter is accepted as abrogating all obligations or understandings _inter se_ which are found by the Security Council or the General Assembly to be inconsistent with the terms thereof. They further solemnly undertake that they will not hereafter enter into any engagements inconsistent with the terms thereof and that they will invoke no provisions of any international engagements so as in any way to impede the obligations assumed by them in the present Charter."

The United Nations Conference
on International Organization

Doc.2 (ENGLISH)
G/14(n)(a)
May 8, 1945

GENERAL

CORRIGENDA FOR DOCUMENT 2 (ENGLISH), G/14 (n), "AMENDMENTS SUBMITTED BY THE ETHIOPIAN DELEGATION"

On page 2, in the fourth line of the comment on "Chapter VIII, Section A, page 12, paragraph 2", the word "they" should be substituted for the word "it".

On page 3, under "Section B, page 14, paragraph 2", the quoted sentence should read:

> "So long as a dispute is subject to the procedure of paragraphs 3, 4, and 5 of Section A . . ."

GENERAL

Doc 2 (English)
G/7 (o)

MINISTRY OF FOREIGN AFFAIRS FRENCH REPUBLIC

Paris, March 21, 1945.

The agreement reached by the Governments of the United States, of the U.S.S.R., of Great Britain and of China is a matter of satisfaction for France in that the Governments in question consider it necessary to establish, among the United Nations, following the conclusion of the present war, an international organization of the peace, the security and, to a certain extent, of the economy of the world.

France is all the more favorable to the inspiration which guided her four Allies in the elaboration of the Dumbarton Oaks plan because she recognizes therein the fundamental ideas which she herself chose to champion over a long period and which led most of the victorious nations to establish the League of Nations in 1919.

The fact that the League of Nations did not succeed in enforcing respect for right and justice and in preventing aggression which, once again, has loosed on the world the calamities of war, has in no way diverted France from the ideal which was and continues to be hers.

She is of the opinion that a lasting peace pre-supposes an international organization which is both more extensive and stronger and also requires the establishment of principles of international justice and authority which shall be superior to the laws and authority of the several States. She would be ready, for her part, to go farther than the Dumbarton Oaks plan and permit greater limitations of sovereignty in exchange for a better international organization. But she admits that the maintenance of peace, during the period which will follow the war, will depend principally on the agreement of the great Powers; she will therefore abstain from proposing anything which might compromise, should the occasion arise, such an agreement.

It seems to her indispensable that the terrible experiences which humanity has just undergone and which she, for her part, has paid very dearly, should be taken into account in the future organization, in order that it may be truly strong and effective. Indeed, nothing would be more dangerous than a system which would have more or less the appearance of guaranteeing the peace and the security of each without being able to do so. For such a system would lull vigilance, and this would result in the encouragement of aggression and would even involve the risk of granting injustice, if not the consecration, at least the tolerance of international law.

It is with a view to defining more clearly the conditions which might give to the proposed organization the greatest possible soundness and effectiveness that the Provisional Government of the French Republic requests that the Dumbarton Oaks plan, as completed at Yalta, be amended in accordance with the following text.

(1) Aims of the Organization.-

In the opinion of the French Government, it appears indispensable that there should be stated, in the very exposition of the aims of the Organization, the rules according to which the maintenance of international peace and security will be assured; that it should be specified, in particular, that the solutions of conflicts shall be sought in accordance with right and justice; that treaties bind those who have signed them and that their observance by all constitutes one of the essential conditions of international order.

A reminder of these elementary principles of international morality is necessary at a time when the United Nations are invited to concede to the Permanent Members of the Security Council rights and responsibilities which are exceptionally extensive in consideration of the decisive action which they are in a position to exert in the interest of all.

(2) Members of the Organization.-

It is fitting that membership in the Organization, which in the first instance is limited to the United Nations, should subsequently be open to other States; but it is advisable to make provision for the conditions under which new admissions will be possible. The French Government considers it necessary that these conditions should ensure a community of political principles and an ideal shared in common among those who are already Members and any new Members of the Organization.

The French Government is also of the opinion that all members of the Organization must accept minimum obligations; their membership would not be consistent, for example, with the advantages of neutrality which they might pretend to maintain in any contingency.

(3) Council - Assembly.-

The French Government has no comments to make regarding the general provisions which govern, in the Dumbarton Oaks plan, the composition of the Council; but as regards the allocation of non-permanent seats, it is of the opinion, and in this it assumes a position which is close to that set forth in the proposal of the Belgian, Canadian and Dutch Governments, that it would be advisable to assign at least one-half of them to those States which would guarantee the active defense of international order and would have the means to participate to a substantial degree in it.

Moreover, the powers of the Assembly should be extended. At the very least, it is necessary that the Assembly should be able to make the Security Council investigate situations which might seem to the Assembly likely to endanger world peace. It would thus be possible for the Powers which do not have a seat on the Council to cooperate to a greater degree in the tasks of the organization.

(4) Voting procedure in the Security Council.-

Without wishing to overlook the element of weakness which the rule of unanimity entails for an institution, the French Government admits that it is not possible, under existing conditions, to set in motion the full force of the International Organization against the will of one of the permanent members of the Security Council. It is therefore advisable, in its opinion, to make a distinction, from the standpoint of the voting procedure, between the *recommendations* of the Council and its *decisions*, inasmuch as the former do not involve recourse to force. The French Government suggests that the *recommendations* be passed by a two-thirds majority vote (*without qualifications*) of the members of the Council. The *qualified* two-thirds majority (a majority including unanimity of the permanent members) would, on the other hand, be required in the case of *decisions*.

This procedure makes it necessary to consider the possibility of the Council's not reaching a decision; and it seems necessary to determine what would be, in such a case, the rights and the duties of the members of the Organizations.

(5) International force.-

The amendments suggested by the French Government in Section B of Chapter VIII relate to some clarifications which should be made, with a view to ensuring greater effectiveness, in the provisions relating to the composition, the stationing and the use of forces placed at the disposal of the Security Council, as well as to the composition of the Committee of Chiefs of Staff.

(6) Regional Arrangements.-

The French Government is of the opinion that it is incompatible with the conditions of security of some States, which may demand immediate action, to defer, until such time as the Council has reached a decision, emergency measures for which provision is made, in the case of contingencies, by treaties of assistance concluded between Members of the Organization and filed with the Security Council. With a view to maintaining the rights of the Council, the Signatory States of such treaties should report to it, with the least possible delay, such measures as they may have been led to take in the execution of the stipulations of these treaties.

(7) Economic and Social Cooperation.-

The French Government wishes an extension of the authority of the Economic and Social Council and the adoption of procedures which would enable it to cooperate, should the occasion arise, with the Security Council.

(8) Court of International Justice.-

The French Government has not considered it necessary to submit a separate amendment concerning the International Court of Justice; it feels bound, however, to express its desire that the consultations which are foreseen should take place with reasonable dispatch in order that the new Court should be in operation when the Peace Conferences begin.

These are the principal remarks which the study of the Dumbarton Oaks plan has suggested to the Government of the Republic. However, these remarks fall far short of exhausting the whole range of considerations that are suggested to it by a study of such an essential subject.

The trials which the world has experienced since Germany and

Japan have engaged in aggression by tearing up treaties make it necessary to consider, in the full light of reality, the causes of such calamities. Among these causes, one of the most serious was an erroneous conception, harbored by many, of the effectiveness per se of the principle of collective security.

Collective security constitutes an enormous force but, if it is misunderstood or poorly organized, it can also be a cause of weakness. It is a force to the extent that it permits peace-loving States to gather together their means of defense against an aggressor State. It becomes a cause of weakness when, by letting each take for granted the assistance of the others, it is interpreted as an encouragement and an invitation to States to relax the vigilance without which any system of collective security would be ineffectual, since the effort of all is never more than the sum total of the efforts of each.

The final failure of the former League of Nations was not due to a defect in its institutions; these, whenever recourse was had to them without there being an attempt to avoid the consequences of such recourse, have satisfactorily performed their function. The failure could only be attributed to a weakening of wills.

It is only too well established that the failure of the policy of sanctions, which was the cause of the crisis in 1935, might have been avoided and that the encroachments of Germany on the liberties of neighboring nations might have been held in check in their initial stage, if the nations, which today stand united to suppress violence, had been united at that time to forestall it. But the systematic isolation which some of them maintained when it came to the affairs of Europe, the partial disarmament into which premature confidence in institutions whose effectiveness had not been tested had led others, and their fear of assuming, under such conditions, any great risks of an immediate nature, were the reasons why in these two cases energetic measures were not adopted which, if they had been taken immediately, would have spared the world, in all probability, the torrent of blood and of tears which has engulfed humanity.

These precedents, which subsequent events have brought into such great relief, deserve to be recalled now that the United Nations are invited to gather together and draw up the charter of a new International Organization in an age when evolution bestows on means of aggression a quality of effectiveness and of decisive suddenness. It is without doubt desirable that the text of this charter be drawn up with all possible care and attention to minute detail, and that every precaution be taken in the terms used to fill in the gaps and to correct the errors which may have been noted in the Articles of the Covenant of the former League of

Nations. By submitting the amendments set forth above and by sending a delegation which will collaborate in the work of the San Francisco Conference, the French Government indicates clearly the importance it attaches to this part of the task. But, going beyond technical questions, however important they may be, the French Government is anxious to stress the fact that the spirit in which the future international organization will be established and will function assumes in its eyes an importance even greater.

It deems it essential that the two concepts of responsibility and solidarity should henceforth assume their full significance.

Responsibility is defined as the obligation which every member of the organization must feel to cooperate effectively, wherever geography has stationed it and to the full extent of its means, in the common defense. The new Organization should exert care not to weaken this preoccupation by spreading a false feeling of security and exhorting the nations to disarm without taking proper precautions. On the contrary, the Organization must be able to recognize that those United Nations which will make, in spite of the needs of their reconstruction, the sacrifice, after the war, of maintaining a strong army and of remaining vigilant, will be performing their international duty well.

As for solidarity, it is the very essence of collective security. But it cannot manifest itself in identical forms in all instances. There are States between which a more direct tie is created by the nearness of the same danger. On the other hand, there are others whose cooperation, while equally indispensable, can make itself felt only after an interval, because of their remoteness. The machinery adopted must be conceived with sufficient flexibility to take into account these various situations. The first-mentioned States must be in a position to conclude, as between themselves, treaties of assistance which provide that the danger be met with immediate counter-measures. In the case of the latter, slower procedures can be envisaged. However, the treaties of assistance must in no case be considered as constituting violations of collective security when, on the contrary, they constitute the primary elements of that security.

In the opinion of the French Government, it can be hoped that it will be possible, on the basis of these facts drawn from experience and from geography, to make of collective security, no longer merely a great hope on the part of nations, but rather an instrument which will effectively avert, in the future, the danger of aggression. The Government of the Republic is firmly convinced that the United Nations will succeed in this, if they are inspired by these principles and are determined to apply to the practice of peace the solidarity which, in the long run, they have affirmed in the war and which is leading them to a common victory.

/TRANSLATION/

AMENDMENTS PROPOSED BY THE FRENCH GOVERNMENT TO THE PROPOSALS RELATIVE TO THE ESTABLISHMENT OF A GENERAL INTERNATIONAL ORGANIZATION

CHAPTER I

PURPOSES

Paragraph 1. To maintain international peace and security, in conformity with right and justice, and to that end to take effective collective measures for the prevention and removal of threats to the peace and the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means adjustment or settlement of international disputes which may lead to a breach of the peace, while bearing in mind that treaties bind those who have signed them and that their observance constitutes one of the essential conditions of international order.

Paragraph 3. To achieve international cooperation in the solution of international economic, social and other humanitarian problems, and to see to it that the essential liberties of all are respected, without distinction of race, language or creed.

CHAPTER III

MEMBERSHIP

Membership of the Organization should be open to all peace-loving states which give proof of it by their institutions, their international behavior and the effective guarantees which they furnish that they will respect their international obligations. Participation in the organization implies obligations which are incompatible with the status of neutrality.

CHAPTER V

THE GENERAL ASSEMBLY

Section B. FUNCTIONS AND POWERS.

Paragraph 1.- Replace the last sentence worded as follows:

> "The General Assembly should not on its own initiative make recommendations on any matter relating to the maintenance of international peace and security which is being dealt with by the Security Council" by:
>
> "The General Assembly may always call the attention of the Security Council to situations which are capable of endangering peace".

CHAPTER VI

THE SECURITY COUNCIL

Section A. COMPOSITION.

The Security Council should consist of one representative of each of eleven members of the Organization. Representatives of the United States of America, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the Republic of China, and, in due course, France, should have permanent seats. The General Assembly should elect six states to fill the non-permanent seats, at least three of these states being chosen from among those which have undertaken the active defense of international order and have the means to participate in it to an appreciable extent, which is to be determined by the Council. These six states should be elected for a term of two years, three retiring each year. They should not be immediately eligible for reelection. In the first election of the non-permanent members three should be chosen by the General Assembly for one-year terms and three for two-years terms.

Section C. VOTING.

(1) To maintain and to restore international peace and security, the Security Council shall have recourse, according to circumstances, to "recommendations" or to "decisions". "Recommendations" shall be approved by an (unqualified) two-thirds majority vote of the members of the Council. "Decisions" shall be approved by a qualified two-thirds majority vote, (including the concurring votes of the permanent members).

Should the Council not succeed in reaching a decision, the members of the Organization reserve to themselves the right to act as they may consider necessary in the interest of peace, right and justice.

CHAPTER VIII

ARRANGEMENTS FOR THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY INCLUDING PREVENTION AND SUPPRESSSION OF AGGRESSION.

Section A. PACIFIC SETTLEMENT OF DISPUTES.

Paragraph 1. The Security Council, while bearing in mind that treaties must be respected, should be empowered to investigate any dispute, or any situation which may lead to international friction or give rise to a dispute, in order to determine whether its continuance is likely to endanger the maintenace of international peace and security.

Paragraph 7. The provisions of paragraph 1 to 6 /of Section A 7 should not apply to situations or disputes arising out of matters which by international law are solely within the domestic jurisdiction of the state concerned, unless the clear violation of essential liberties and of human rights constitutes in itself a threat capable of compromising peace.

Section B. DETERMINATION OF THREATS TO THE PEACE OR ACTS OF AGGRESSION AND ACTION WITH RESPECT THERETO.

Paragraph 5. In order that all members of the Organization should contribute to the maintenance of international peace and security, they should undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements concluded among themselves, armed forces, facilities and assistance necessary for the purpose of maintaining international peace and security, and particularly the right of passage. Such agreement or agreements should govern the numbers and types of forces, the period within which they must be placed at the disposal of the Security Council and, should the necessity arise, the zone where they will normally be stationed, and should specify the facilities, assistance and means of communications to be provided. The special agreement or agreements should be negotiated as soon as possible and should in each case be subject to approval by the Security Council and to ratification by the signatory states in accordance with their constitutional processes.

Paragraph 6. In order to enable urgent military measures to be taken by the Organization, national contingents consisting of forces of all arms which are stationed, or whose permanent stationing would be arranged, if necessary, in appropriate security zones, should be held permanently available to the Security Council for combined enforcement action. The strength and degree of readiness of these contingents and plans for their combined action should be determined by the Security Council with the assistance of the Military Staff Committee within the limits laid down in the special agreement or agreements referred to in paragraph 5 above.

Paragraph 9. There should be established a Military Staff Committee the functions of which should be to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, to the employment and command of forces placed at its disposal, to the regulation of armaments, to possible disarmament, and to any measures of control and regulation which might be considered timely. It should be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. The Committee should be composed of the Chiefs of Staff of the permanent members of the Security Council or their representatives and of a delegate of the members of the Organization who have undertaken to place substantial forces at the disposal of the Security Council. Any member of the Organization who is not permanently represented on the Committee should be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires that such a state should participate in its work. Questions of command of forces should be worked out subsequently.

Section C. REGIONAL ARRANGEMENTS.

Paragraph 2. The Security Council should, where appropriate, utilize such arrangements or agencies for enforcement action under its authority, but no enforcement action should be taken under regional arrangements or by regional agencies without the authorization of the Security Council.

Nevertheless, an exception is made to this rule in the case of the application of measures of an urgent nature provided for in treaties of assistance concluded between members of the Organization and of which the Security Council has been advised. In any event, the signatory states of such treaties should report to it, with the least possible delay, the measures which they may have been led to take in execution of their provisions.

CHAPTER IX

ARRANGEMENTS FOR INTERNATIONAL ECONOMIC AND SOCIAL COOPERATION

Section A. PURPOSE AND RELATIONSHIPS.

Paragraph 1. With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations, the organization should instigate solutions of international, economic, social and other humanitarian problems and promote respect for human rights and fundamental freedoms. The General Assembly and, under its authority, the Economic and Social Council should co-operate with the Security Council in the performance of this function.

Section B. COMPOSITION AND VOTING

The Economic and Social Council should consist of representatives of eighteen members of the Organization, among whom would have to be included, at least to the extent of half their number, the states which are economically the most important. The states to be represented for this purpose should be elected by the General Assembly for terms of three years. Each such state should have one representative, who should have one vote. Decisions of the Economic and Social Conference should be taken by simple majority vote of those present, provided that two-thirds at least of the members of the Economic and Social Council shall take part in the voting.

Section C. FUNCTIONS AND POWERS OF THE ECONOMIC AND SOCIAL COUNCIL

Paragraph 1. The Economic and Social Council should be empowered:

....

C(bis) to consider the creation and supervision of similar organizations particularly for the distribution of raw materials.

....

(f) To assist the Security Council upon its request, and to refer to it directly, in an emergency, any humanitarian, economic, social or other problem which it considers a threat to peace, the obligation to inform the Assembly being incumbent on the Economic and Social Council.

Section D. ORGANIZATION AND PROCEDURE

Paragraph 1. The Economic and Social Council should set up an economic commission, a social commission, and such other commissions or subcommissions as may be required, especially on a regional basis. These commissions should consist of experts. There should be a permanent staff which should constitute a part of the Secretariat of the Organization.

o
o o
o

TECHNICAL AMENDMENT

"Any treaty or international engagement of a political character which is concluded or entered into in the future by a member of the Organization shall be recorded immediately by the Secretariat and published by it as soon as possible None of the treaties or international engagements in question will be binding prior to their recording".

TC-10721

97

The United Nations Conference on International Organization

GENERAL

Doc. 2 (ENGLISH)
G/7 (o) (1)
May 5, 1945

DUMBARTON OAKS PROPOSALS FOR THE ESTABLISHMENT OF A GENERAL INTERNATIONAL ORGANIZATION, CHAPTER IX, SECTIONS A AND C: DRAFT AMENDMENTS SUBMITTED BY THE FRENCH DELEGATION.

"Ever faithful to its vocation and to its traditional defence of the pre-eminence of intellectual things, France will bring before the Conference suggestions with a view to strengthening and reorganizing the Institute of intellectual co-operation."

(The text of the proposals follows on the next page.)

The United Nations Conference
on International Organization

Doc. 2 (ENGLISH)
G/7 (0) (1)
May 5, 1945

GENERAL

DUMBARTON OAKS PROPOSALS FOR THE ESTABLISHMENT OF A GENERAL INTERNATIONAL ORGANIZATION, CHAPTER IX, SECTIONS A AND C: DRAFT AMENDMENTS SUBMITTED BY THE FRENCH DELEGATION.

The proposed modifications are underlined:

1) Chapter IX (heading).

"Arrangements for International Economic, Social and Intellectual Cooperation".

2) Section A - Paragraph 1.

"With a view to the creation of conditions of stability, mutual understanding and well-being which are necessary for peaceful and friendly relations among nations, the Organization should facilitate solutions of international economic, social, intellectual and other humanitarian problems and promote respect for human rights and fundamental freedoms."

3) Section A - Paragraph 2.

"The various specialized economic, social, intellectual and other organizations and agencies would have responsibilities in their respective fields as defined in their statutes."

4) Section C - Paragraph b.

The end of paragraph b to read as follows:

"...economic, social, intellectual and other humanitarian matters".

5) Section C - Paragraph c.

The beginning of paragraph c to read as follows:

"to receive and consider reports from the economic, social, intellectual and other organizations or agencies....."

The French Delegation reserves the right to bring forward proposals for an international Organization on intellectual and educational questions in the course of the meetings, to take the form of a resolution or annex to the Charter. The executive agency would be the International Institute of Intellectual Cooperation set up by the League of Nations, which would be attached to the general Organization in conditions to be defined in conformity with Chapter IX, Section A, paragraph 2.

The United Nations Conference on International Organization

Doc. 2 (ENGLISH)
G/7 (o) (2)
May 6, 1945

GENERAL

FRENCH DRAFT AMENDMENT TO CHAPTER XII PARAGRAPH I OF THE DUMBARTON OAKS PROPOSALS'

I. Pending the going into effect of the special agreement or agreements mentioned in Chapter VIII, Section B, paragraph 5, and in conformity with the provisions of paragraph 5 of the Declaration of the Four Nations, signed in Moscow on October 30, 1943, the States signatories to this Declaration and FRANCE should consult each other, and, if need be, other members of the Organization, with a view to taking such common action in the name of the Organization as may be necessary for the maintenance of international peace and of security.

CHAPTER VIII - Section C - Paragraph 2

The Security Council should, where appropriate, utilize such regional arrangements or agencies for enforcement action, under its authority. But no enforcement action should be taken under regional arrangements or by regional agencies without the consent of the Security Council, except the measures contemplated in the regional arrangements directed against the renewal of the policy of aggression by States which have been the aggressors in the present war. The signatory States should give an account to the Security Council, as soon as possible, of the measures they may have been led to take in fulfillment of the stipulations of the said arrangements.

The United Nations Conference on International Organization

GENERAL

Doc. 2 (ENGLISH)
G/26(a)
May 5, 1945

CHAPTER ______

INTERNATIONAL TRUSTEESHIP SYSTEM

FRENCH PRELIMINARY DRAFT

Note 1/ The present draft refers solely to questions of principle and procedure and does not preclude in any way the application of international trusteeship to any given territory.

Note 2/ Should the present draft be included as a chapter in the Charter for the Organization, the paragraphs and the clauses of the Charter referring to it will have to be revised so as to conform with the provisions of the international trusteeship system.

Article 1. The Organization should create, under its authority, a system of international trusteeship for the administration and control of such territories as may be placed under this system through subsequent individual agreements.

Article 2. The essential purposes of the system should therefore be the following:

a) to promote international peace and security;

b) to promote the political, economic, and social progress of the territories placed under international trusteeship and of their inhabitants and further the progressive development of their political institutions;

c) to secure in these territories non-discriminatory treatment with regard to legitimate private and economic activities for the nationals of the member States of the Organization and, in reciprocity, secure for these territories an equitable economic treatment by the members of the Organization.

Article 3. The international trusteeship system will apply only to those territories which, being classified as follows, should come under this system in accordance with subsequent agreements:

a) territories now under mandate;

b) territories which as a consequence of the war may be detached from enemy States.

Only ulterior agreements arrived at for each particular case would determine which territories should be placed under trusteeship and under what conditions.

Article 4. For each territory to be placed under trusteeship, an individual trusteeship treaty should be entered into by the states directly concerned and should be subject to the approval specified in either Article 7 or Article 8 hereafter.

Article 5. Each individual trusteeship treaty should specify the conditions of the trusteeship, which differ according to the characteristics of the territories and of the peoples coming under such trusteeship.

Article 6. One or more strategic zones may be specified in the trusteeship agreement. These zones may include all or part of the territory to which the agreement applies.

Article 7. All the prerogatives of the Organization in regard to the strategic zones, including approval of the trusteeship agreements referred to in Article 6 above, together with their modifications, will be vested in the Security Council.

Article 8. The prerogatives of the Organization concerning the trusteeship agreements relating to all other territories shall be vested in the General Assembly.

Article 9. In order to assist the General Assembly in exercising the prerogatives granted to it by Article 8, an International Trusteeship Council shall be created under its authority. This Council shall consist of specially qualified representatives chosen in the following manner:

a) one each by the States entrusted with the administration of territories under trusteeship

b) one by an equal number of other States appointed for three years by the General Assembly.

Article 10. The General Assembly and, under it, the Trusteeship Council should have the necessary powers to examine reports submitted to them by the authorities responsible for the administration of the territories under trusteeship and, generally, to exercise the prerogatives within their competence, defined by the individual trusteeship agreements.

Article 11. The authority responsible for the administration of the territories referred to in Article 8 will make an annual report to the General Assembly, on the basis of a questionnaire established by the Trusteeship Council.

The United Nations Conference
on International Organization

Doc. 2 (ENGLISH)
G/14 (i)
May 4, 1945

GENERAL

AMENDMENTS TO DUMBARTON OAKS PROPOSALS SUPPLEMENTED BY THE TEXTS ADOPTED AT YALTA, SUBMITTED BY THE GREEK DELEGATION, MAY 3, 1945

In his opening speech, delivered to the Plenary Session of the Conference on April 28, Mr. John Sofianopoulos, Chairman of the Greek Delegation, informed the Conference of his Government's observations in respect of the principles and procedures embodied in the Dumbarton Oaks and the Yalta proposals.

He reserved the right of the Delegation to table specific amendments with the competent organs of the Conference.

In accordance with the rules of procedure adopted by the Conference, the Greek Delegation now has the honor to request the Secretary General of the Conference to submit to the latter for its consideration and eventual adoption the following amendments:

- 1 -

CHAPTERS I and II

Purposes and Principles of the Organization

In paragraph 1, of Chapter I, to add after the words "To maintain international peace and security" the words: "with due respect for contractual obligations and the generally accepted principles of international law, justice and morality."

The Greek Delegation believes that the adoption of the above amendment would dispel misgivings in the implementation of Chapter VIII. In particular, the last words of paragraph 1 of Section B of that Chapter are vaguely reminiscent of the policy that was followed in the sad pre-war years of "peace at any price," and need clarification by rendering unequivocal the principles and purposes of the organization.

- 2 -

CHAPTER V, SECTION B

At the end of paragraph 8 to add the words: "It shall be open to the Assembly to make recommendations on any question that is under consideration or has already been treated by the Security Council."

This would involve the deletion of the last part of paragraph 1, Section B of Chapter V.

In the opinion of the Greek Delegation, the role assigned to the Assembly appears to be unimportant in comparison with the powers possessed by the Security Council, and should be rendered more important in extent and depth, since all the members of the organization are represented in the Assembly.

- 3 -

CHAPTER VI, SECTION C

As at present, with the Yalta text on voting unmodified, the code of international conduct that would emerge from the San Francisco Conference would create a positive right in favor of the potential law-breaker and to the detriment of his victim, since, through the exercise by any one of the permanent members of the power of veto, the Security Council might be debarred from probing into the determination of the existence of an act of aggression. The Greek Delegation reserves to itself the right to support one of the several amendments already tabled by other Delegations with a view to obviating this drawback. Moreover, they propose the insertion between paragraphs 2 and 3 of the texts elaborated at Yalta of a new paragraph 3, reading as follows:

Paragraph 3: "Recommendations by the Security Council under paragraph 2 of Section B of Chapter VIII should be made by an affirmative vote of seven members."

The original paragraph 3 would thus become paragraph 4.

- 4 -

CHAPTER VIII, SECTION A, PARAGRAPH 5

To add to paragraph 5 the following words: "Should no adjustment be reached and should such failure be considered

by the Security Council to be a threat to the peace of the world, the Council should determine by an affirmative vote of seven members the existence of a threat to the peace."

- 5 -

CHAPTER VIII, SECTION A, PARAGRAPH 7

At the end of paragraph 7 the following words to be added: "It should be left to the Permanent Court at the request of a party to decide whether or no such situation or dispute arises out of metters that, under international law, fall within the domestic jurisdiction of the state concerned."

- 6 -

CHAPTER VIII, SECTION B, PARAGRAPH 2

At the end of paragraph 2 to add the following words: "In particular, in the event of a dispute between two or more countries, other than permanent members of the Security Council, the latter should take decisions by an affirmative vote of seven members in the determination of the existence of a breach of the peace or of an act of aggression."

The United Nations Conference on International Organization

GENERAL

RESTRICTED
Doc. 2
G/7 (F)
April 23, 1945

GUATEMALA
November 14, 1944

SECRET

/TRANSLATION/

OBSERVATIONS OF THE GUATAMELAN GOVERNMENT REGARDING THE PROPOSAL FOR THE ESTABLISHMENT OF A GENERAL INTERNATIONAL ORGANIZATION FOR THE MAINTENANCE OF PEACE AND SECURITY IN THE WORLD

The Government of Guatemala has devoted preferential and careful study to the proposals of Dumbarton Oaks and, in principle and in a general way, finds them acceptable and very appropriate -- in its belief -- to the high purpose of assuring to the world of the post-war period a just and stable peace, based on the juridical equality of the states and on mutual respect for the sovereignty and right of each of the free nations which love justice and peace.

The Government of Guatemala of course accepts the fundamental principles in accordance with which the organization should act and believes that the creation of the four organs which are proposed would be very convenient.

With regard to the International Court of Justice, it appears to it indispensable to insist on the convenience of granting to that juridical organ full jurisdiction to compel the appearance of any state summoned, without restriction with respect to the subject matter in litigation; and that, acting in complete independence in relation to the Community, it may have all the backing of the latter for the faithful fulfilment of decisions. Should the states, when direct methods, good offices, mediation and conciliation to solve their disputes have failed, be at liberty to submit them or not to do so to an international tribunal of justice or to arbitration, and should they be able to circumscribe to their whim the proceedings of this tribunal and the scope of decisions, but little progress will have been made towards the extirpation of wars in the future. Experience has shown that when a state fears an unfavorable decision it does whatever is within its power to evade the submission of the litigation to a tribunal: the statement is already classic that "the dignity of the nation does not permit that its right be questioned or be open to discussion". When in those cases the state reaches the point of agreeing to the judicial or arbitral consideration of the controversy, it circumscribes to such an extent the powers of the judges

or the subject matter of the proceedings that it renders nugatory every effort to reach a just and equitable solution. The compulsory jurisdiction of the tribunal would avoid the repetition of such maneuvers.

It is, of course, acceptable that the statutes of the new court should be inspired by those of the present Court of the Hague, and it appears to the Government of Guatemala that it would be very appropriate if the new tribunal should be empowered to hand down consultative opinions because this would contribute signally to the friendly solution of conflicts which for any reason the parties might not desire to settle through an award but rather between themselves. The intervention of the International Court in such cases would permit of a very valuable judicial interpretation to orient the requesting parties.

On the other hand, it appears very much to be recommended that in the election of the judges there be included jurists who represent all the systems of world juridical thought in order that the functioning of the tribunal may harmonize with the juridical idiosyncrasies of any litigant.

With respect to the Security Council, the Government of Guatemala is in accordance with the form proposed for constituting it and with the scope and extent of its powers, and would only suggest that representation be given in it to the Latin American Republics through the election from among them of two or three non-permanent members who would change each period among themselves by alphabetical order or any other means of rotation. Distributing the balance of the non-permanent members between the other nations of the world, there would be obtained in the Council the complete and constant representation of the different systems of thought prevailing at the moment, by which good results regarding the maintenance of peace by the organization would be assured to the greatest possible extent. It appears logical that the members of the Security Council, as well as those of the other organs should retain their right to talk but not their vote when matters are discussed or measures are in question which would affect in a special manner the interests of their respective nations, because if this were not done such countries would be placed in an advantageous position with respect to the others.

The Government of Guatemala believes that it would perhaps be appropriate to reduce somewhat the unlimited breadth of the powers of the Security Council, for example, giving them to it by delegation from the general assembly and making the action of the Council subject to the revision and the approval of the assembly. Thus the Security Council would not form a completely autonomous body but would be the principal body of the Community, to which it would have to give periodic account of its acts and decisions. There may be invoked as a precedent in this connection the first and second projects of the agreement for the United Nations Relief and Rehabilitation Administration signed the 9th of November, 1943. The second of these projects subjected to the approval of the Council of the Administration the work which the Central Committee had performed during recesses, while the first project gave to this Committee with respect to the Council powers as wide as those which the Dumbarton Oaks proposals gave the Security Council in relation to the General Assembly.

The Government of Guatemala would agree to maintain armed forces in accordance with its resources and to place them at the disposal of the Organization to employ in joint action, should this be necessary to preserve the peace and block any international aggression.

The Government of Guatemala would agree to maintain armed forces in accordance with its resources and to place them at the disposal of the Organization to employ in joint action, should this be necessary to preserve the peace and block any international aggression.

The Government of Guatemala believes that with relation to the proposed organization and international cooperation to preserve the peace, the American principles of collaboration and continental solidarity should be maintained, as well as the procedure of consultation and the periodic inter-American conferences.

Finally, the Government of Guatemala gives its enthusiastic adherence to the proposals which flowed from the Dumbarton Oaks conference and for the realization of them it is disposed to cooperate within the measure of its resources; it expresses its faith and confidence that the Organization which is proposed, with the participation of all free countries, based on mutual respect and the juridical equality of states, great and small, will be an efficacious means for maintaining peace and guaranteeing that it will not be broken, by means of general international cooperation in accordance with the principles of the Atlantic Charter, and holding the principles of international law as a norm to regulate relations and mutual interdependence.

The United Nations Conference
on International Organization

Doc. 2 (English)
G/7 (f) (1)

GENERAL

GUATEMALA

The Delegation from Guatemala has given the Dumbarton Oaks Proposals for the establishment of a general international organization preferential and careful consideration. By and large, and in principle, it finds them acceptable and very adequate to the lofty purpose of assuring for the post-war world a just and stable peace based on the juridical equality of the States and on mutual respect for the sovereignty and rights of every free country anxious for peace and justice.

The Government of Guatemala accepts, of course, the basic principles according to which the organization should act and believes that the establishment of the four organs proposed is highly expedient.

This Delegation thinks that the Organization contemplated would stand on a firmer basis if it were given absolute universality, in such wise that every State should by the very fact of its being such be included as a member. The organization would thereby embrace the whole international community.

With respect to the Security Council, the Government of Guatemala accepts that it be composed of permanent and non-permanent members, and agrees that the former include the United States, England, the Union of Soviet Socialist Republics, China and France. This Government holds the view that, seats in the Council should be allotted to several Latin-American republics as non-permanent members. These would alternate among themselves at the end of every term in alphabetical order or by some other means of rotation.

It seems logical that the members of the Security Council, as well as those of other organs should retain the right to speak, but not to vote, when questions are discussed or measures have to be taken particularly affecting the interests of their respective nations, as otherwise, such countries would be placed in an advantageous position with respect to the others.

It would be advisable to reduce the extent of the powers of the Security Council. An acceptable formula would be to assign them to the Council by delegation of the General Assembly, by subordinating the action of the Council to revision and approval by the Assembly.

The Government of Guatemala would be willing to maintain armed forces and to make them available to the Organization, within its powers, for use in joint action whenever it were necessary to preserve peace and prevent international aggression.

This Government believes that as regards the proposed organization and international cooperation for the maintenance of peace, the Pan American system should be strengthened and the principles of collaboration and continental solidarity should be upheld, as well as the procedure for consultation and the periodic inter-American conferences. This without prejudice to the creation of regional organizations among countries united by special geographical, economic, social or other interests, provided that they be not incompatible with the world organization.

As regards the International Court of Justice, it seems necessary to insist on the advisability of granting to that organization full jurisdiction to require the appearance of any defendant State, without restrictions as to the subject matter of the suits. The Court should not only act with complete independence as regards the community, but should have its backing for the faithful execution of the decisions. For the efficiency of the Institute, it is thought that it is a necessary condition that it be able to decide certain controversies exaequo et bono at the request of either of the parties.

Of course it is acceptable that the statute of the new Court be inspired in that of the present Court of The Hague. It seems to this Government that it would be highly advisable that the new Court be granted authority to issue advisory opinions on request of the Assembly or of the Security Council of the world organization.

The Delegation of Guatemala summarizes in the preceding paragraphs its general remarks on the Dumbarton Oaks Proposals, but reserves the right to present any further remarks with respect with the other points proposed, when the time comes to discuss them.

Mexico, D. F., February 27, 1945.

The United Nations Conference
on International Organization

RESTRICTED
Doc. 2
G/7(b)
April 23, 1945

GENERAL

HAITI
October 27, 1944

[TRANSLATION]

MEMORANDUM

The Haitian Government has taken note, with the greatest interest of the proposals elaborated at Dumbarton Oaks concerning the establishment of an International Organization, the aims of which, as set forth, deserve its most complete approval.

The means of achieving these aims have been examined by the Haitian Government with the same care, and it can only subscribe to all the views expressed, as it is convinced that they are proper for the inauguration of peace in the whole world, which will be born of the frightful catastrophe in which we are living, due to this merciless war, and that to a very great extent they will contribute toward preventing any act of aggression.

The Haitian Government is ready to adhere to the statutes that will be derived from the proposals submitted to it. It thinks that the organization: "the United Nations" as envisaged, will have a happy and fruitful mission in the postwar period, because it provides for coercive means necessary to make its decisions respected, with a view to the maintenance of Peace in the world.

[This memorandum is signed by the President of Haiti and was presented by the Haitian Ambassador to the Department of State on October 27, 1944. The remainder of the memorandum does not relate to the Dumbarton Oaks proposals.]

The United Nations Conference
on International Organization

GENERAL

RESTRICTED
Doc. 2 (ENGLISH)
G/7(b)(1)
May 5, 1945

PROPOSED AMENDMENTS TO THE DUMBARTON OAKS PROPOSALS SUBMITTED BY THE HAITIAN DELEGATION

Proposed Amendments to Chapter II of the Dumbarton Oaks Proposals, submitted by the Delegation of the Republic of Haiti

The Haitian Delegation considers it a good and useful innovation to have introduced in one of the first chapters of the Draft Charter of the Dumbarton Oaks Proposals, a statement of the essential principles which should serve as the basis for the United Nations Organization and regulate its functions and development.

It appears, however, that to be complete and produce the maximum of efficiency, this statement should take into account not only the aspirations and principles, so often reiterated in International Conferences, but also the objective lesson of facts, showing, that in addition to economic causes, the present World War has been nourished in the most intensive and cruel manner by the psychological disturbances created by the religious and racial discriminations of the political doctrines which are being combatted by the United Nations, remaining faithful to the democratic ideal of human liberty and dignity. The facts demand for States, as well as for individuals, new and more exact juridical and political guaranties. That is why, beside the fundamental principle of equal sovereignity of all the peace-loving States, which will doubtless gain by being formulated in more concrete terms, the Haitian Delegation has the honor to propose the formal recording as a corollary of the principle of racial and religious non-discrimination, by modifying paragraph I of Chapter II of the Dumbarton Oaks Proposals, as follows: "The Organization is based on the principle of the sovereign equality of all States that love peace and exclude from their relations any racial or religious discrimination."

Proposed Amendment submitted by the Delegation of the Republic of Haiti to Chapter IX of the Dumbarton Oaks Proposals

The Delegation of the Republic of Haiti believes that in Chapter IX of the Dumbarton Oaks Proposals, entitled "Arrangements for International Economic and Social Cooperation", special attention should have been accorded to the important problem of the education of the peoples with a view to peace.

If the political, economic and military measures contemplated by the Dumbarton Oaks Proposals can really insu[illegible] in the world the physical disarmament of the peoples, it [illegible] by education alone that one may hope to accomplish their moral disarmament. It is only by education that one can foster in the heart of men those sentiments of love and tolerance for others without which a strong and just peace cannot exist.

The first consideration of dictators upon their arrival in power has been to take possession of the youth in the schools. It is from this vantage point that they have been able to carry on the remainder of their campaign the abolishment of liberties, the persecution of minorities, lying, killing, stealing and even posing as God. One wonders how human beings can submit to such a vile regime. The explanation is clear; the dictators had seized the soul of the people and moulded it in their own image.

In view of the above, the Delegation of the Republic of Haiti believes that the International Organization to be established has the duty, as herein stated, of devoting special attention to the education of the peoples.

For this reason, it has the honor to propose that in Chapter IX of the Dumbarton Oaks Proposals, after the words "economic and social" which are repeated often enough in the text, the word "educational" be added.

It also proposes that in Section D of the same Chapter entitled "Organization and Procedure", that a Commission of Education be instituted, which would be concerned with intellectual cooperation between peoples and working for the development in the world of tomorrow of systems of education based on the ideal of justice, equality, liberty and peace.

The United Nations Conference
on International Organization

Doc. 2 (English)
G/7 (m)

GENERAL

COMMENT OF HONDURAN GOVERNMENT ON DUMBARTON OAKS PROPOSALS

1. The Government of Honduras notes with special satisfaction that the nations of this Hemisphere are participating in an exchange of opinions on the international conferences held to formulate the policy and institutions of international cooperation. The Government of Honduras believes that the inter-American system created during the various Pan American conferences has contributed in the past and will contribute in the future to making secure the principles of International Law, and it considers this exchange of ideas among the American Republics in reference to the general organization for international peace and security to be of great advantage to them.

2. The Government of Honduras accepts the principles and general character of the Proposals for the establishment of an international organ for world peace and security.

3. It considers the purposes and principles of the organ to be created, as described in Chapters I and II of these Proposals, to be most praiseworthy and appropriate.

Nevertheless, it believes that it would be very much to the point if certain principles were determined more concretely and specifically in some sections, even though they may already be understood in other concepts of a general character.

It is advisable to state that:

a) The American Republics can proudly display as one of their major conquests in the field of American International Law their recognition and proclamation of the principle of the juridical equality of nations. Consequently, Honduras advocates that this principle be specifically included.

b) With regard to affirmation of the concept of international confidence, it would be well to determine that the organization will guarantee both the political independence and the territorial integrity of States.

c) On this same plane of juridical valuation, it could well be considered opportune to declare in the plans for the

D

organization that intervention in the domestic affairs of another nation is inadmissible --using, if desired, any other phraseology to express the idea.

d) It would be desirable from the international standpoint to stipulate that respect for and observance of signed treaties constitute one of the most efficacious means for maintaining peace.

4. Without pretending to make any amendment, it might be observed that in Chapter IV, the list of principal organs of the organization does not include the Economic and Social Council, which will have charge of achieving international co-operation in the solution of international economic, social, and other humanitarian problems. Although this is outlined in Chapter IX, it would nevertheless be well to mention it here also.

5. With regard to the functions and powers of the General Assembly, it is observed in Chapter V, Section B, paragraph 3, that the General Assembly should, upon recommendation of the Security Council, be empowered to suspend from the exercise of any rights or privileges of membership any member of the Organization against which preventive or enforcement action shall have been taken by the Security Council, but the restoration of the exercise of the rights and privileges thus suspended shall be made, not by decision of the General Assembly, but of the Security Council. The natural thing would be that if the General Assembly has the right to suspend, it would also have the right to restore; thus the impression would be avoided that the Security Council would be restoring what the General Assembly took away.

6. Although no spirit of criticism is intended, it could well be indicated that the General Assembly be empowered plainly and simply to elect the Secretary General of the organization. This detail should be based on the special attributes of the exclusive personality which the General Assembly should have.

7. Honduras is in perfect agreement with the idea that the United States of America, the United Kingdom of Great Britian and Northern Ireland, the Union of Soviet Socialist Republics, the Republic of China, and the Republic of France, who have borne the weight of the war and who will pledge all their resources for the maintenance of international peace and security, should have permanent seats on the Security Council, as is stipulated in Chapter VI of the Proposals. But Honduras also believes --without implying any objection--that representation on the Security Council should be given to the republics of the American Continent that do not have permanent represen-

tation, through election among themselves of three non-permanent members, who might be determined by some procedure of rotation or alphabetical order. The other non-permanent members could be distributed among the other nations of the world, and for this purpose it would perhaps be well to increase the number of members of the Security Council to fifteen --a number that would represent no obstacle to the rapid decisions to be taken by that Council.

8. Although the voting procedure in the Security Council has not yet been determined, the idea might be anticipated that in the voting of the Council or any other body created for the purposes of the Organization, the member directly and particularly interested in a certain matter of direct interest to his respective country should refrain from voting, although he would preserve full rights to explain his viewpoints in all matters respecting the decisions to be taken in any particular matter.

9. Honduras gives its full support to the creation of an international court of justice, referred to in Chapter VII of the Proposals, on the basis of the statute of the Permanent International Court of Justice. Absolute guarantees should be provided for the independence of the judges and their freedom of action and opinion, as well as a faithful respect for decisions. When the statute for its establishment is discussed, the court's jurisdiction and competence in juridical and political matters should be determined, in order to give it a greater sphere of action and to make its operations a conclusive means for settling international disputes or controversies.

It is noted that Chapter VIII, Section A, paragraph 6, provides that justiciable disputes should normally be referred to the international court of justice.

10. Full attention and study have been given to the provisions for the maintenance of peace and international security, including the prevention and suppression of aggression; and it is noted with satisfaction that in Chapter VIII, Section A, paragraph 3, it is provided that any disputes likely to endanger the maintenance of international peace and security should be solved by the pacific and friendly means of negotiation, mediation, conciliation, arbitration, or judicial settlement, all of which are efficient and valuable international means for the settlement of controversies that have not been decided otherwise.

11. Chapter IX of the Proposals contains provisions for international cooperation in the solution of economic and social problems by means of the creation of an Economic and Social Council. The importance and scope of this chapter are open to

opinion. In the New World, in whose structure the same evolution of ideas and efforts toward the definitive implanation of law and justice, as opposed to methods of force and violence, has held sway, economic and social problems must also prevail to the same degree as the collective welfare, the maintenance of international peace, and friendly relations among nations depend in great part on the manner in which the aforementioned problems are solved or efforts are made to solve them. In Section B, referring to the composition and voting of the Economic and Social Council, it is stipulated that the Council should consist of representatives of eighteen members of the Organization, elected by the General Assembly for a term of three years. It would be desirable to indicate that such elections should follow a system of rotation, or some other procedure that, in some established order, would give a place on the Economic and Social Council to each of the members of the Organization in turn.

12. The Government of Honduras recognizes the effort made to establish a General International Organization that will guarantee world peace and security and, taking into account its participation in the war at the side of the United States of America and the other Allied Nations, it adheres in principle at the present time to the Proposals which with such a noble spirit of solidarity have been made public.

The Government of Honduras reiterates the offer of its most decided cooperation in bringing to reality a world organization such as that whose creation is now being sought, based on the principles of law and justice and respect for all peace-loving nations, notwithstanding their economic, political, or territorial significance.

The United Nations Conference on International Organization

Doc. 2 (ENGLISH)
G/14(h)
May 4, 1945

GENERAL

SUGGESTIONS PRESENTED BY THE GOVERNMENT OF INDIA FOR THE AMENDMENT OF THE DUMBARTON OAKS PROPOSALS FOR A GENERAL INTERNATIONAL ORGANISATION

1. CHAPTER 1 -- PURPOSES

(a) Comments:

The aims expressed in paragraphs 2 and 3 of the original draft, and that expressed in the new paragraph 2 which we now desire to add, are a necessary preliminary to the attainment of international peace and security. These paragraphs should therefore logically precede paragraph 1 of the original draft. We have therefore re-arranged the original paragraphs and inserted a new paragraph 2 to assert, as one of the aims of the organisation, an elementary principle to which reference has already been made in Chapter 9, Section A, Paragraph 1.

(b) Suggested Amendments:

Substitute the following for Chapter 1:-

"Chapter 1 - PURPOSES"

The purposes of the Organisation should be:-

1. To develop friendly relations among nations and to take other appropriate measures to strengthen universal peace;
2. To promote recognition of fundamental human rights for all men and women, irrespective of race, colour or creed, in all nations and in all international relations and associations of nations one with another;
3. To achieve international cooperation in the solution of international economic, social and other humanitarian problems;

4. To maintain international peace and security; and to that end to take effective collective measures for the prevention and removal of threats to the peace and the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means adjustment or settlement of international disputes which may lead to a breach of the peace; and
5. To afford a centre for harmonizing the actions of nations in the achievement of these common ends."

2. CHAPTER V. SECTION C -- VOTING.

(a) Comment:

Experience derived from the working of the League of Nations suggests the desirability of penalising a member State which fails to honour its financial obligations to the organisation. For this reason we suggest a proviso to paragraph 1 of Section C, VOTING, as set out below.

The deletion in paragraph 2 of the references to elections for the Security and Economic and Social Councils is suggested because insistence that election should require a two-thirds majority might in many cases lead to an impasse, which adherence to the normal practice of a simple majority would avoid.

(b) Suggested amendments:

(i) To paragraph I add:-

"Provided that a member of the organisation which is in arrears with its contributions to the Organisation to an extent exceeding the contributions for two years shall have no vote in any election under this Charter.

(ii) In paragraph 2, in lines 10, 11, and 12, delete the words "election of members of the Security Council; election of members of the Economic and Social Council;"

3. CHAPTER VI -- THE SECURITY COUNCIL.

(a) Comments:

The principle of linking responsibility with power has already been adopted in deciding on the permanent membership of the Security Council. We

consider it desirable to extend this principle to the selection of the non-permanent members. Amendment (i) set out below is designed to ensure this.

The proposal in the original draft makes inadequate provision for ensuring continuity of experience in the working of the Security Council as far as non-permanent membership is concerned. We propose therefore to provide for observers entitled to sit in the Security Council but not to vote. By this means, without enlarging the executive portion of the Security Council, it will be possible to ensure in its membership at all times a larger proportion of working members having previous experience of its procedure than would otherwise be the case.

We have substituted the word "appointment" for "election" to leave it open to the General Assembly to decide how they can best give effect to the principles which we consider should govern the selection of non-permanent members of the Security Council.

The combined effect of these amendments is to ensure that the Security Council will always include an adequate proportion of members representing States having not only the will but the ability to provide adequate resources for the maintenance of international peace and security, and also to ensure the presence at all times in the Council of an adequate number of non-permanent members having practical experience of its working.

(b) Suggested Amendments:-

(i) In SECTION A -- COMPOSITION, for the last four sentences substitute:-
"The general assembly should appoint six States to fill the non-permanent seats. In making these appointments the general assembly should pay due regard to the relative population, industrial and economic capacity, and contribution in armed forces, facilities and assistance which each State undertakes to make available in accordance with paragraph 5 of Section B of Chapter VIII, account

also being taken of the contribution in these respects which it has made during World War II. These six States should be appointed for a term of two years, three retiring each year. They should not be immediately eligible for reappointment. At the first appointment of the non-permanent members three should be appointed by the General Assembly for one year terms and three for two year terms.

(ii) In SECTION A -- COMPOSITION, renumber the existing paragraph as amended above as paragraph 1 and add the following as paragraph 2.

2. "The General Assembly should also appoint, by the same method and on the same basis as are applicable to the appointment of non-permanent members, a representative of each of six other States to participate without vote in the deliberations of the Security Council."

The United Nations Conference on International Organization

Doc. 2 (ENGLISH)
G/14 (m)
May 5, 1945

GENERAL

AMENDMENTS PRESENTED BY THE DELEGATION OF IRAN TO THE DUMBARTON OAKS PROPOSALS

PREFACE

The necessity for establishing a strong and lasting peace cannot be doubted. The foundations for such a peace have been laid by the Dumbarton Oaks Proposals, drawn up by the four Sponsoring Powers. To give these proposals a more universal character, almost all the States participating in the conference have expressed their points of view. The Delegation of Iran, eager to co-operate in this task, submits the following amendments and hopes that these suggestions will be taken into consideration and that the work accomplished by the conference will be strong, lasting and universal.

CHAPTER I

Purposes:

To draw up paragraph 1 as follows:

1. "To maintain international peace and security on the basis of right, justice and the principles of international law..."

Insert a new paragraph between paragraphs 3 and 4 in the following terms:

"To safeguard the territorial integrity and independence of the Member States."

CHAPTER II

Principles:

To draw up paragraph 4 as follows:

"All the Member States of the Organization should refrain from intervening in their international relations, either directly or indirectly, in the internal affairs of the other States and from the threat or use of force in any manner inconsistent with the purposes of the Organization."

CHAPTER V

The General Assembly:

Section B. Functions and Powers.

Change the last sentence of paragraph I to the following:

"The General Assembly can always draw the attention of the Council to a dispute or to all situations capable of endangering peace, and can fix an adequate delay within which the Council should pronounce its decision on the question submitted it. If, at the expiration of this period, the Council is unable to reach a decision, the Assembly can intervene and take the necessary measures.

CHAPTER VI

The Security Council

Section A. Composition

Substitute, for Section A, the following:

"The Security Council should be composed of representatives of 15 members of the Organization. Representatives of the United States of America, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the Republic of China, and France should have permanent seats. The General Assembly should elect ten states to fill the non-permanent seats. These ten states should be elected for a term of two years, five of them retiring each year. They should not be immediately eligible for reelection. In the first election of the non-permanent members five should be chosen by the General Assembly for one-year terms and five for two-year terms.

Section C. Voting

This section should be amended as follows:

1. Each member of the Security Council should have one vote.

2. Decisions of the Security Council on all matters should be made by an affirmative vote of nine members; provided that, in decisions under Chapter VIII, Section A, and under the second sentence of Paragraph I of Chapter VIII, Section C, a party to a dispute should abstain from voting.

CHAPTER VII

An International Court of Justice:

The Delegation of Iran declares itself in favor of the obligatory jurisdiction of the International Court of Justice in the terms proposed by the Committee of Jurists of the United Nations convened in Washington, D. C.

CHAPTER VIII

Arrangements for the Maintenance of International Peace and Security Including Prevention and Suppression of Aggression:

Section A. Pacific Settlement of Disputes.

Add a second sentence to paragraph 4 as follows:

"Any threat to the territorial integrity or independence of a Member State constitutes a threat to the maintenance of peace and international security."

CHAPTER IX

Arrangements for International Economic and Social Cooperation

Section B.

Substitute for Section B the following:

"The Economic and Social Council should consist of representatives of eighteen members of the Organization. The States to be represented for this purpose should be elected by the General Assembly for a term of three years. Six of them should retire each year, and should not be immediately eligible for reelection. At the first election, six should be chosen for a term of one year, six for a term of two years, and six for a term of three years...."

CHAPTER XII

Transitional Arrangements

Add the following paragraphs:

"Any international treaty or undertaking concluded by a member of the Organization should be registered immediately by the Secretariat and published by it as soon as possible."

"A Committee of qualified Jurists should be established to draw up a code of International Law."

The establishment of an intellectual institute of co-operation, with a view to establishing a better understanding between the nations, is very much to be desired.

It is hoped that the Organization will give a clear and exact definition to the term "aggressor". This definition should be included in the Charter.

The United Nations Conference on International Organization

Doc. 2 (English)
G/14(c)
May 2, 1945

GENERAL

LEBANON'S SUGGESTIONS ON THE DUMBARTON OAKS PROPOSALS WHICH WILL BE SUBMITTED FOR DISCUSSION IN THE UNITED NATIONS CONFERENCE ON INTERNATIONAL ORGANIZATION TO BE HELD IN SAN FRANCISCO ON APRIL 25, 1945

(1) Lebanon wishes to express its gratitude to the Great Powers extending invitations to the United Nations Conference on International Organization at San Francisco for their just invitation of Lebanon to that Conference. Lebanon, as one of the United Nations, appreciates and shares fully the high motives which prompted them to hold this Conference. There is presented to the peace-loving nations of the world a unique historic opportunity for organizing the peace which, considering the grave issues at stake, certainly no one can afford to miss. Lebanon is completely ready to do its part in the maintenance of international peace and security on the basis of the Dumbarton Oaks Proposals, which are inspired by the principles of justice and the sovereign equality of all peace-loving states.

(2) The maintenance of international peace and security is certainly a worthy purpose of the United Nations. No price is too high for achieving this end. But it will be noticed that in themselves peace and security are merely formal, privative, and static. It is patent that certain outwardly peaceful and secure situations do not spring from genuine justice, and therefore are not worth maintaining. Unless then the positive content of peace is determined on a foundation of real justice, there will be no real peace. Accordingly, the United Nations in their Conference at San Francisco must devote some time to the determination of a dynamic and positive conception of civilized existence which will justify the Organization they will set up. The peace which man believes in and will spontaneously rise up to defend is only that which is grounded in his ultimate rights and freedoms, and in the reality of justice.

(3) The Proposals of Dumbarton Oaks envisage political, military, judicial, economic, and social measures for the maintenance of international peace and security. There is hardly any mention of matters of an intellectual and educational order, except for the phrase "humanitarian problems" in Chapter I, Article 3, and Chapter IX, Sections A and C, which may imply such matters. But the promotion of understanding in respect of ideas and beliefs among the nations is no small matter in the securing of enduring peace. Therefore educational and intellectual cooperation among the nations is of prime importance. A free exchange of ideas will train the mind in the ways of peace and will bring the nations together. The United Nations can save themselves many wars if they attend properly to the liberal arts of peace. To this end certain small nations, while they may not be in themselves of much consequence militarily and politically, may be of the greatest importance intellectually and educationally. Their unobtrusive contribution to international peace and security is altogether out of proportion to their size or material importance. Nations such as Lebanon, by reason of their traditions, educational institutions, potentialities, and geographical position, must be looked upon as peculiarly entitled to a dominant representation in the Economic and Social Council or in an Educational Commission under that Council.

(4) Lebanon suggests that there be added to the purposes of the Organization of the United Nations the following purpose:

> "To create a permanent Committee of Jurists whose function shall be the periodic codification or consolidation of existing principles of international law together with the modifications thereof which shall be deemed necessary from time to time".

It is obvious that the precise formulation of the law of nations, brought always up-to-date in accordance with the development of the theory and practice of that law, will be a potent instrument for the maintenance of international peace and security. In this way the more political and military aspects of the Organization, on which the Dumbarton Oaks Proposals seem to lay such justifiable stress, will be balanced and tempered by these equally important requirements of international justice.

San Francisco, April 26, 1945.

The United Nations Conference on International Organization

Doc. 2 (English)
G/14 (a)
May 2, 1945

GENERAL

MEMORANDUM OF THE LIBERIAN GOVERNMENT ON THE DUMBARTON OAKS PROPOSALS

The Government of Liberia projects the following as her views and recommendations on the Dumbarton Oaks Plan:

The Government approves a large measure of the features of the plan, and on these makes no comments; so that, only on those points which this Government feels alterations, revisions or other changes should be made, are specific mention made in this memorandum.

As to paragraph three (3) Chapter I this Government recommends the following: That in connection with the working out of details of whatever economic, social or other humanitarian problems, as may be projected at the Conference, care should be taken to see that definite and specific means be set out therefor; as otherwise unjustifiable interference in the internal affairs of nations might occur.

That in this respect request for advice and assistance, etc., etc., should originate from the nation seeking the solution of such problem or problems.

As one of the objectives of the organization is the maintenance of a universal level of humanitarian action and social conduct among the nations, to which the Liberian Government unreservedly subscribes, the view of the Liberian Government is that, in the event an allegation is made that conditions not conforming to this objective have arisen in a member state, then the allegation should be brought to the attention of the state concerned for investigation and for such action by it as the facts may warrant.

As to Chapter V, Section B, Subsection 1, this Government recommends that in the last sentence in this section the words, "should not on its own initiative," should be eliminated, and the word, "may" substituted in their stead.

As to Chapter V, Section B, Subsection 6, the Liberian Government recommends that the following words should be inserted as a second paragraph: "The General Assembly shall also initiate studies which should lead to the Codification of International Law."

As to Chapter VI, Section A under Composition, the Liberian Government recommends that after the words "permanent seats" what follows should be omitted and these words substituted: "The General Assembly should select, from the panel of member states not entitled to permanent seats, alphabetically six states which should serve for a term of two years and this procedure should be followed until the panel of states is exhausted."

As to Chapter VI, Section B, Subsection 4, the Liberian Government recommends that the period (.) at the end of said section should be removed and a semicolon (;) placed in its stead and the phrase, "provided always that such decisions may be reviewed by the General Assembly," added.

Under Chapter VI this Government recommends that under Section D- PROCEDURE-, the following section should be added or included: "6. Any member of the Security Council whose Government shall be involved in any dispute or either question arising or pending before that Council should be precluded from participating in decisions taken on such question or in such dispute."

Under Chapter IX, Section B- the Liberian Government recommends that the same procedure, as suggested in Chapter VI, Section A, should apply in this case also.

With reference to Chapter X, Section one (1), this Government recommends that the words: "on recommendation of the Security Council, for such term and under such conditions as are specified in the Chapter," should be omitted.

April 25, 1945

The United Nations Conference
on International Organization

Doc. 2 (ENGLISH)
G/7 (c) (1)
May 5, 1945

GENERAL

AMENDMENTS TO THE DUMBARTON OAKS PROPOSALS

PRESENTED BY THE DELEGATION OF MEXICO

The Secretariat General of the Conference has issued and distributed among the Delegations participating in it--Doc. 2 G/7(c)--a paper entitled "Opinion of the Ministry of Foreign Affairs of Mexico on the Dumbarton Oaks Proposals for the Creation of a General International Organization".

Taking into consideration the extensiveness of said document and in order to facilitate its study by the different Commissions and Committees and their deliberations, the Secretariat General of the Delegation of Mexico has requested this document to be printed and distributed, which contains exclusively, first, those conclusions of the above mentioned paper, in which certain Amendments are suggested in regard to the Dumbarton Oaks Proposals and, second, the Observations presented by Mexico to the Inter-American Conference on Problems of War and Peace, having selected from the foregoing Amendments those which bear greater transcendency, and having them worded in articulated and parallel form to the Dumbarton Oaks Proposals.

A.- PROPOSED AMENDMENTS AS CONCLUSIONS OF THE DOCUMENT ENTITLED "OPINION OF THE MINISTRY OF FOREIGN AFFAIRS OF MEXICO ON THE DUMBARTON OAKS PROPOSALS FOR THE CREATION OF A GENERAL INTERNATIONAL ORGANIZATION". (1)

1. To grant to the Assembly the powers that ought to correspond to it in a democratic system, due to its possessing the fully representative attributes of the General International Organization.

2. To place the attributions of the Council in harmony with the broadening of the powers referred to in the foregoing clause.

---

(1) For basis for these Amendments, see Comments in the respective Sections of the document in question (DOC. 2 G/7(c)).

3. To establish a democratic procedure for the designation of members of the Council, even though there may be two categories of them according to their degree of international responsibility for the maintenance of peace.

4. To stipulate clearly that the right of any Member of the organization to participate in the Council, while the latter is examining a question which directly concerns it, does not depend upon what the Council may decide on the subject.

5. To separate from the Pact of the General International Organization those questions dealt with in Chapter XII of the Dumbarton Oaks Proposals which, exclusively for the transition period, should be regulated in a separate protocol.

6. To adopt the system of universal and obligatory membership, even though the rights of the conquered States may temporarily be restricted.

7. To determine the compatibility of the General International Organization not only with the existing regional organizations but also with those which may be created in the future, on condition, naturally, that their objectives shall not be incompatible with the principles and aims of the former.

8. To include the Constitution of the General International Organization the pledge of all the States for the incorporation of international law into their respective national laws.

9. To invert the order established between the aims and principles of the General International Organizations, so that the latter shall occupy first place.

10. To complete the principles enumerated in Chapter II of the Dumbarton Oaks Proposals and incorporate them in the Declaration of the Rights and Duties of the States that will appear as an annex to the constitution.

11. To incorporate essential human rights in a declaration of the International Rights and Duties of Man which, like the foregoing one, will appear as an annex to the Pact.

12. To create a specialized international organ which will supervise the observance of the principles contained in the Declaration referred to in the foregoing clause.

13. To reaffirm the principles now internationally sanctioned with respect to dependent nations and organize

and appropriate system for the practical application of such principles.

14. To establish efficient machinery in order that "pacific changes" may be made without this being left to the free will of the parties.

15. In case the procedure of unanimity for the Council's decisions is adopted, to stipulate that, whenever any one of its Members is accused of intentions or acts of aggression, its vote shall not be counted for such unanimity.

16. In the said hypothesis, that of adoption of the rule of unanimity for voting in the Council, to establish that, when any one of the members thereof shall be a party to an international controversy, his vote shall not be counted.

17. To eliminate all restrictions on the competency of the Organization in cases of international controversies in order that it may always be possible to apply some one of the procedures of pacific solution provided for in the Pact.

18. To stipulate the registration of all treaties in the Secretariat of the General International Organization as an indispensable requirement for their validity.

19. To change the name proposed for the General International Organization to that of "Permanent Union of Nations" or another similar one that does not imply discrimination against any State.

20. To include among the essential organs of the General International Organization the Economic and Social Council and exclude from such list the Permanent Court of International Justice, which would be an autonomous organ, although connected with the Organization.

21. To specify the principal fields for which there are to exist complementary specialized organs dependent upon the General International Organization.

22. To specify that, although the Council is to be composed in such a way as to be able to function constantly in principle it shall meet every three months.

23. To change the two-thirds majority established for the voting procedure of the Assembly to that of three-quarters.

24. To include in an article the granting of diplomatic privileges and immunities to officials of the Assembly, the Council and to those of the Secretariat General that may be deemed proper.

25. To stipulate the conditions required for the Pact of the General International Organization to enter into force.

26. To specify that, in the case of ratification of amendments, the status of Member of the Council will be taken into account at the time when the deposit of ratifications is made.

27. To provide a procedure for dissolution of the League of Nations and for disposition of its assets and liabilities.

B.- OBSERVATIONS TO THE DUMBARTON OAKS PROPOSALS PRESENTED BY THE DELEGATION OF MEXICO TO THE INTER AMERICAN CONFERENCE ON PROBLEMS OF WAR AND PEACE (2).

TEXT OF DUMBARTON OAKS PROPOSALS	TEXT SUGGESTED BY THE MEXICAN DELEGATION
Chapter I	Chapter I
PURPOSES	PURPOSES
The purposes of the Organization should be:	The purposes of the Organization should be:
1. To maintain international peace and security; and to that end...	1. To maintain international peace and security, within a system of Law, Justice, and Equity; and to that end...
3. To achieve international cooperation in the solution of international economic, social, and other humanitarian problems and...	3. To achieve international cooperation in the solution of international, economic, social and other humanitarian problems; and to promote respect for human rights and fundamental liberties; and...

---

(2) These Observations, presented on February 27, 1945, were worded according to the following method:

a) They are confined to those apparent from the analysis of the part already formulated and released for publicity of the Dumbarton Oaks Proposals, without making

Chapter II	Chapter II
PRINCIPLES	PRINCIPLES
In pursuit of the purposes mentioned in Chapter I the Organization and its members should act in accordance with the following principles:	In pursuit of the purposes mentioned in Chapter I the Organization and its members should act in accordance with the following principles:
1. The Organization is based on the principle of the sovereign equality of all peace-loving states.	1. The Organization is based on the principle of the sovereign equality of all peace-loving states.
2. All members...	2. The Organization guarantees the territorial integrity and the political independence of all the Member States, as also respect for treaties, within the limitations imposed by such readjustments and revisions as may be required by the evolution of the conditions of the international common life.
	3. No State has a right to intervene, directly or indirectly, in the internal or external affairs of another State.

- - - - - - - - - - - -

any mention of any omissions which, in the opinion of the Delegation of Mexico, are found in said document;

b) By the selection, from among the aforesaid Observations relating to the part of the Dumbarton Oaks Proposals already known, of those deemed essential;

c) By presenting the said Observations in articulated and parallel form to the provisions contained in the present wording of the Dumbarton Oaks Proposals, by following the order of the latter and further by underlining, in the texts suggested by the Mexican Delegation, such parts as involve an innovation with respect to the corresponding articles of the document under consideration.

d) With emphasis on the fact that said Observations are being formulated by the Delegation of Mexico, reserving for itself complete freedom of action to present and defend at the San Francisco Conference all those supplementary points which it may deem convenient.

	4. All members of...
6. All members of the Organization shall refrain from giving assistance to any state against which preventive or enforcement action is being undertaken by the Organization. The Organization should ensure that states not members of the Organization act in accordance with these principles so far as may be necessary for the maintenance of international peace and security.	6. All members of the Organization shall refrain from giving assistance to any state against which preventive or enforcement action is being undertaken by the Organization. The Organization should ensure that states not members of the Organization act in accordance with these principles so far as may be necessary for the maintenance of international peace and security, within a regime of Law, Justice, and Equity.
Chapter III MEMBERSHIP	Chapter III MEMBERSHIP
1. Membership of the Organization should be open to all peace-loving states.	1. Membership of the Organization should be open to all peace-loving states and the tendency should be to make the Organization, in due course, include all the Members of the Community of Nations, without any State being lawfully entitled to remain outside the Organization.
Chapter V THE GENERAL ASSEMBLY Section B. Functions and Powers	Chapter V THE GENERAL ASSEMBLY Section B. Functions and Powers
1. The General Assembly should have the right to consider the general principles of cooperation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of	1. The General Assembly should be competent to deal with any questions affecting international peace and security. More especially, it should have the right to consider the general principles of cooperation relating to

armaments; to discuss any questions relating to the maintenance of international peace and security brought before it by any member or members of the Organization or by the Security Council; and to make recommendations with regard to any such principles or questions. Any such question on which action is necessary should be referred to the Security Council by the General Assembly either before or after discussion. The General Assembly should not on its own initiative make recommendations on any matter relating to the maintenance of international peace and security which is being dealt with by the Security Council.	such questions, including the regulation of armaments; to examine any principles governing disarmament and the treaties proving inapplicable and any international situations having become unjust; to discuss any questions relating to the maintenance of international peace and security brought before it by any member or members of the Organization or by the Security Council; and to make recommendations to the Governments and to the Security Council with regard to any such principles or questions. Any such questions on which action is necessary should be referred to the Security Council by the General Assembly either before or after discussion. The General Assembly should nevertheless have the right to present recommendations to the Security Council in regard to such questions and to summon the Members of said Council to appear before it in due course to report on any measures which the Security Council may have taken or may contemplate taking in the premises. Excepting in questions considered as emergency questions calling for immediate action, the General Assembly should, at the request of one half plus one of the Members of the Organization, examine any decision, adopted by the Security Council, which decision shall in such a case only become obligatory if approved by three fourths of the Delegations present at the Assembly.
2. The General Assembly should be empowered to admit	2. The General Assembly should be empowered to admit

new members to the Organization upon recommendation of the Security Council.	new members to the Organization on its own initiative or upon recommendation of the Security Council, although in the first of these two cases the Security Council should, during the first eight years of the life of the Organization, have the right to veto the admission of a new member by the unanimous vote of its semi-permanent members.
3. The General Assembly should, upon recommendation of the Security Council, be empowered to suspend from the exercise of any rights or privileges of membership any member of the Organization against which preventive or enforcement action shall been taken by the Security Council. The exercise of the rights and privileges thus suspended may be restored by decision of the Security Council. The General Assembly should be empowered, upon recommendation of the Security Council, to expel from the Organization any member of the Organization which persistently violates the principles contained in the Charter.	The General Assembly should be empowered to suspend from the exercise of any rights or privileges of membership any member of the Organization against which preventive or enforcement action shall have been taken by the Security Council. The exercise of the rights and privileges thus suspended may be restored by the General Assembly once the conditions giving rise to the suspension shall have ceased to exist.
4. The General Assembly should elect the non-permanent members of the Security Council and the members...	4. The General Assembly should, by observing the provisions of Section A, of Chapter VI, elect both the temporary and semi-permanent members of the Security Council and the members...
Section C. Voting	Section C. Voting
2. Important decisions of the General Assembly,	2. Important decisions of the General Assembly (apart

including recommendations with respect to the maintenance of international peace and security; election of members of the Security Council; election of members of the Economic and Social Council; admission of members, suspension of the exercise of the rights and privileges of members, and expulsion of members; and...

Section D. Procedure

1. The General Assembly should meet in regular annual session and in such special sessions as occasion may require.

Chapter VI

THE SECURITY COUNCIL

Section A. Composition

The Security Council should consist of one representative of each of eleven members of the Organization. Representatives of the United States of America, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the Republic of China, and in due course, France, should

from the examination, on appeal, of any decisions of the Council within the meaning of paragraph 1 of Section B above) including recommendations to the Governments and to the Security Council with respect to the maintenance of international peace and security, the revision of inapplicable treaties and the readjustment of unjust situations, and requests for extraordinary information from the Security Council; election of members of the Security Council; election of members of the Economic and Social Council; admission of members, suspension of the exercise of the rights and privileges of members, and the restoration of such exercise; and...

Section D. Procedure

1. The General Assembly should meet in regular annual sessions and, when occasion shall so require, in special sessions which shall be convened by the Secretary General, or at the request of the Security Council or of one half plus one of the members of the Organization.

Chapter VI

THE SECURITY COUNCIL

Section A. Composition.

The Security Council should consist of one representative of each of twelve members of the Organization. Of these six, who shall be known as Semi-Permanent Members, should be the States whose responsibility for the maintenance of peace is greatest within the International Community, and it shall be the duty of the Assembly to determine, should have permanent seats. The General Assembly should elect six states to fill the non-permanent seats. These six states should be elected for a term of two years, three retiring each year. They should not be immediately eligible for reelection. In the first election of the non-permanent members three should be chosen by the General Assembly for one year terms and three for two year terms.

Section B. Principal Functions and Powers

1. In order to ensure prompt and effective action by the Organization, members of the Organization should by the Charter confer on the Security Council primary responsibility for the maintenance of international peace and security and should agree that in carrying out these duties under this responsibility it should act on their behalf.

---

every eight years, which are those States. For the first eight year period it shall be considered that the States meeting the required qualification are the United States of America, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the Republic of China, France and... (one Latin American Republic). The General Assembly should elect six more states to be designated Temporary Members to fill the six remaining seats on the Security Council. These six States, among which two Latin American states should at all times be included until the expiration of the first term of the Semi-Permanent Members, should be elected for a term of two years, three retiring each year. They should not be immediately eligible for reelection. In the first election of the Temporary Members three should be chosen by the General Assembly for one-year terms and three for two-year terms.

Section B. Principal Functions and Powers

1. In order to ensure prompt and effective action by the Organization members of the Organization should by the Charter, for a term of eight years, confer on the Security Council primary responsibility for the maintenance of international peace and security and should agree that in carrying out these duties under this responsibility the Council should act on their behalf during the period in question, although with the limitations specified in paragraph 1 of Section B of Chapter V

4. All members of the Organization should obligate themselves to accept the decisions of the Security Council and to carry them out in accordance with the provisions of the Charter.	4. All members of the Organization should obligate themselves to accept the decisions of the Security Council and to carry them out in accordance with the provisions of the Charter, although in the case of questions not calling for immediate action they shall have the right to appeal to the Assembly, with the restrictions provided by paragraph 1 of Section B of Chapter V.
Section D. Procedure	Section D. Procedure
4. Any member of the Organization should participate in the discussion of any question brought before the Security Council whenever the Security Council considers that the interests of that member of the Organization are specially affected.	4. Any member of the Organization should participate in the discussion of any question brought before the Security Council whenever its interests shall be specially affected by said question, it being sufficient for decision that said condition has been fulfilled, that two Members of the Council agree thereto, in addition to the member in question of the Organization.
5. Any member of the Organization not having a seat on the Security Council and any State not a member of the Organization, if it is a party to a dispute under consideration by the Security Council, should be invited to participate in the discussion relating to the dispute.	5. Any member of the Organization not having a seat on the Security Council and any State not a member of the Organization, if it is a party to a dispute under consideration by the Security Council, should be invited to participate in the discussion relating to the dispute. In order to decide whether this condition has been fulfilled, the procedure provided by the preceding paragraph shall be applied.
Chapter VIII	Chapter VIII
ARRANGEMENTS FOR THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY INCLUDING PREVENTION AND SUPPRESSION OF AGGRESSION	ARRANGEMENTS FOR THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY INCLUDING PREVENTION AND SUPPRESSION OF AGGRESSION

Section A. Pacific Settlement of Disputes	Section A. Pacific Settlement of Disputes
1. The Security Council should be empowered...	1. The Security Council and the General Assembly should be empowered...
3. ...The Security Council should call upon the parties to settle their dispute by such means.	3. ...The Security Council, or the General Assembly, should call upon the parties to settle their dispute by such means.
4. ...they should obligate themselves to refer it to the Security Council. The Security Council should in each case decide...	4. ...they should obligate themselves to refer it to the Security Council or the General Assembly. The Security Council or the General Assembly should in each case decide...
5. The Security Council should be empowered...	5. The Security Council or the General Assembly should be empowered...
6. ...The Security Council should be empowered...	6. ...The Security Council and the General Assembly should be empowered...
7. The provisions of paragraphs 1 to 6 of Section A should not apply to situations or disputes arising out of matters which by international law are solely within the domestic jurisdiction of the State concerned.	7. The provisions of paragraphs 1 to 6 of Section A should not apply to situations or disputes arising out of matters which by international law are solely within the domestic jurisdiction of the state concerned. In case of any difference of opinion in regard to the matter the question will be settled by the International Court of Justice.
Section B. Determination of Threats to the Peace or Acts of Aggression and Action with Respect Thereto	Section B. Determination of Threats to the Peace or Acts of Aggression and Action with Respect Thereto
1. Should the Security Council deem that a failure to settle a dispute in accordance with procedures indicated in paragraph 3 of Section A, or in accordance with its recommendations made under paragraph 5 of Section A,	1. Should the Security Council or the General Assembly deem that a failure to settle a dispute in accordance with procedures indicated in paragraph 3 of Section A, or in accordance with its recommendations made under paragraph 5 of Section A,

constitutes a threat to the maintenance of international peace and security, it should take any...	constitutes a threat to the maintenance of international peace and security, the Security Council should take any measures...
2. In general the Security Council should determine...	2. The Security Council or the General Assembly, should determine...
3. The Security Council should be empowered...	3. The Security Council, after prior decision of the General Assembly, should be empowered...
9. ...The Committee should be composed of the Chiefs of Staff of the permanent members of the Security Council...	9. The Committee should be composed of the Chiefs of Staff of the Semi-Permanent Members of of the Security Council...
Section C. Regional Arrangements	Section C. Regional Arrangements
1. Nothing in the Charter should preclude the existence...	1. The Inter-American System, which can today be considered the most complete and advanced International continental Organization, shall be compatible with the Organization. Nothing in the Statute of the latter should, either, preclude the existence...
Chapter X THE SECRETARIAT	Chapter X THE SECRETARIAT
1. There should be a Secretariat comprising a Secretary-General and such staff as may be required...	1. There should be a Secretariat comprising a Secretary-General and such staff as may be required, which shall be selected with a view to making it as fully internationally representative as possible.
Chapter XI AMENDMENTS	Chapter XI AMENDMENTS
...the members of the Organization having permanent membership on the Security Council...	...the members of the Organization having semi-permanent membership on the Security Council...

Chapter XII

TRANSITIONAL ARRANGEMENTS

1. Pending the coming into force of the special agreement or agreements referred to in Chapter VIII, Section B, paragraph 5, and in accordance with the provisions of paragraph 5 of the Four-Nation Declaration, signed at Moscow, October 30, 1943, the states parties to the Declaration should consult with one another and as occasion arises with other members of the Organization with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security.

2. No provision of the Charter should preclude action taken or authorized in relation to enemy states as a result of the present war by the Governments having responsibility for such action.

Chapter XII

TRANSITIONAL ARRANGEMENTS

(The Mexican Delegation, taking into account the subject matter dealt with by the two articles of this Chapter of the Dumbarton Oaks Proposals, believes that it would not be advisable to include them in the Charter of the General International Organization, not even as "transitional arrangements", inasmuch as the questions to which they refer should be regulated by a separate Protocol. To embody them, as has been done, in the Covenant of the General International Organization to be created, would involve, as regards the latter, an original sin as great or even greater than that which has so often led to reproach in the case of the Covenant of the League of Nations, because of its connection with the Treaty of Versailles.)

AMENDMENTS TO THE DUMBARTON OAKS PROPOSALS SUBMITTED JOINTLY BY THE DELEGATIONS OF BRAZIL, THE DOMINICAN REPUBLIC, AND MEXICO ARE CONTAINED IN A SEPARATE DOCUMENT AT THE END OF THIS VOLUME.

The United Nations Conference
on International Organization

Doc. 2 (English)
G/7 (j)

GENERAL

NETHERLANDS
January 1945

SUGGESTIONS PRESENTED BY THE NETHERLANDS GOVERNMENT CONCERNING THE PROPOSALS FOR THE MAINTENANCE OF PEACE AND SECURITY AGREED ON AT THE FOUR POWERS CONFERENCE OF DUMBARTON OAKS AS PUBLISHED ON OCTOBER 9, 1944 *

The tentative proposals for an international organisation for the maintenance of international peace and security, upon which the representatives of the United States, the United Kingdom, the Soviet Union and China have agreed during the conversations held this summer and autumn at Dumbarton Oaks, have been made generally available (although they are as yet in an incomplete state) for the purpose of study and discussion by the peoples of all countries.1)

The peoples which are united in the Kingdom of the Netherlands, and particularly the people of the Netherlands in Europe, have at all times taken a deep and active interest in every serious attempt to place international peace and security on a firmer basis. The present war has shown that for them the maintenance of international peace and security may well be a condition of survival. The proposals made and those still to be made as a result of the Dumbarton Oaks Conversations will, therefore, have their closest and most sympathetic attention.

Unfortunately, the conditions in which these peoples find themselves at present, both in Europe and in Asia, are scarcely conducive to the formation of a balanced and considered public opinion. In Asia, harsh oppression by the Japanese stifles all genuine public debate. In that part of the Netherlands in Europe which is still occupied by Germany, acute starvation and unparalleled terror prevent the people from giving attention to anything beyond the question whether there will be food today and tomorrow, and whether husband or son will not be caught by the implacable enemy and sent to work in sub-human conditions on defense-works directed against their own country. And in the liberated region, where the Netherlands tradition of democratic institutions and a free press are now bursting into fresh bloom after their suppression by the Germans' leaden hand, destruction on every side, lack of communications and a deficient, though slowly improving food-situation bar the way to serene and fruitful discussion.

---

* This document is the property of the Netherlands Government. It should not be published in whole or in part or quoted from in the press or over the radio without previous permission.

1) See statement by Mr. Cordell Hull, Secretary of State of the United States of America, dated October 9, 1944, coupled with the statement issued simultaneously on the same day by the participating Governments.

In these circumstances, the voice of the Netherlands can for the time being only make itself heard through the country's Government.

Hitherto, the Government have refrained from expressing an opinion on the Dumbarton Oaks proposals. In the first place, because of the announcement made on October 9, 1944, by the Governments whose representatives drafted these proposals, stating their agreement that after further study of these proposals the necessary steps would be taken as soon as possible with a view to completing them; this announcement made it seem preferable to await results. In the second place, because of the great delicacy of this problem, on whose successful solution the future of a happier world so largely depends; preliminary studies seemed necessary. Thirdly, and chiefly, there was last autumn the possibility that the European part of the Kingdom would be set free in its entirety at an early date, so that public opinion could duly enlighten the Government as to the opinion and wishes of the nation, thereby giving greater authority to an expression of the Government's opinion.

Now that the proposals have not given rise to as much public discussion in all free countries as the Netherlands Government had hoped, and since the time of their completion and that of the liberation of the Netherlands seem uncertain, whilst some time has elapsed during which the Netherlands Government have given considerable study to this important matter, it is thought preferable to formulate, on some main points at least, a provisional opinion which, it is confidently anticipated, reflects that of many thoughtful people in the Netherlands. It is hoped that it may prove to be to some extent a contribution towards the attainment of international peace and security, perhaps the most important aspect of that freedom from fear which, proclaimed as our common goal by the President of the United States of America and incorporated as such in the Atlantic Charter, has been universally endorsed by the United Nations in their declaration of January 1, 1942, as one of their primary objectives.

This is a problem which interests the smaller nations 1) no less vitally than the great powers. War may be extremely damaging to the latter: to the former it may mean well-nigh obliteration. If, then, these pages are found to contain words of a sceptical or critical nature, such words should not be taken in a deprecating or a negative sense, nor as an expression of doubt as to the sincerity of purpose of the proposals; nor do they imply preference for unlimited sovereignty, or for the return of the anarchic juxtaposition of states bound by no freely accepted code of common behavior. The harrowing experiences of this war, and particularly the iniquities and bestialities of the German and Japanese occupation, have made the citizens of the Netherlands both sceptical and critical, and, on the other hand, anxious to obtain serious guarantees for the future. The reflections of the Netherlands Government will at no time be animated by a spirit of perfectionism, rejecting a sufficient minimum of good which is attainable for still more which is not. What

---

1) The term "smaller nations (or powers)" is used in this memorandum to designate, in accordance with common practice, those states which because of a deficiency in size, population, or industrial development, or in a combination of these elements are not supposed to belong to the group of the great powers.

the Netherlands Government seek is discussion in a sober, practical and constructive spirit, and they wish their remarks to be considered as offered in that spirit. Also, they wish to preface them by an expression of their gratitude to the great powers who took the initiative for the Dumbarton Oaks Conversations and to the statesmen who took part in them, for having produced a document which, although its original promoters have called it tentative, may well prove to be much more than a useful starting-point.

The plan has been authoritatively called "the keystone of the arch", the arch which is to represent the organisation of the post-war international community. What are the pillars of that arch? The firm determination of the member-states to make the organisation a success? Or such regional groupings as are considered consistent with its purposes and principles? Or the system of voting which remains to be devised and inserted, and which will to a large extent be the critical element determining the scope of the organisation's possibilities? One thing is certain: a set of rules, however carefully devised and however perfect on paper, will never by itself suffice to maintain international peace and security. The best organisation is useless if the will of its members to wield it for the good of the world is lacking. Nothing but that determination can support the scheme and make it work as it should; without it it will come crashing to the ground.

But it seems necessary that every citizen of the world should realise equally clearly that, whether there is such a scheme or not, nothing will help the world if the great powers are not in agreement, and they were certainly right in having this consideration constantly in their mind when working out the Dumbarton Oaks Plan. At the same time, it is confidently believed that the great powers will be the first to admit (1) that at all times they therefore are in duty bound not only to themselves but to all other states, to come to an agreement on important matters of common concern, and (2) that, if they fail to reach an agreement, even the elaborate provisions of the Dumbarton Oaks Plan will be of no avail. Therefore, continuous, organised, and collective contact between the great powers as provided by the Plan is no doubt useful, and may well prove to be a most valuable complement of the services which their diplomatic representatives will continue to render in this respect. But whatever the means or agencies, it is the will to peace by agreement which matters, most especially on the part of the great powers.

In this connection, it is interesting to examine the question: from what side must we expect possible threats to the world's peace, threats calling for the application of the Dumbarton Oaks Plan?

It may be assumed that the future peace-settlement will contain provisions which, in the light of present technical knowledge, afford adequate guarantees that the great aggressor states (Germany; Italy; Japan) will henceforth be prevented from being a menace again. The training received by the younger generation in each of those three countries, coupled, in the case of Germany and Japan at any rate, with a tendency towards organised violence and world hegemony, make it necessary for the United Nations, were it only for self-preservation, to leave nothing undone in this sense. But, whatever safeguards are devised in the peace settlement, nobody can be certain that the progress of science or the varying play of international politics will not enable the aggressor states to indulge one day in fresh manifestations of their lust for power. If this should happen, an organisation like that planned at Dumbarton Oaks might well prove to be of the highest importance, although it must be said that, for this particular purpose, a special organisation whose aims would be limited to the restraint of the three aggressor states would probably be enough.

For whom, or rather against what contingencies, then, should such a general organisation be set up? Is it to keep the smaller states in check, thereby preventing their possible quarrels from disturbing the peace of the world? The reply, no doubt, is that this purpose would not require such an organisation. In the course of this century, there have only been two wars of any importance between smaller states: the Balkan wars of 1912, and the Chaco-war between Bolivia and Paraguay; both were strictly local in character, and neither disturbed the general peace. Moreover, latest developments have shown that in order to wage war with modern weapons, financial and industrial resources are now required which are beyond the means of most, if not all, smaller states. In their case, therefore, an organisation as outlined at Dumbarton Oaks seems hardly necessary.

There remain the five great peace-loving states, with all their actual or potential resources for using armed force on modern lines. So long as they are peace-loving and unwilling to have recourse to the use of armed force (and there is no indication that they will take any other course), an elaborate organisation for the maintenance of peace and security would not appear necessary. If, on the other hand, they should ever threaten (a remote possibility, no doubt) to resort to the use of unauthorized armed force, everything will depend on the voting-arrangements and on the readiness of the war-minded great power to abide by the result of the voting. A plan such as the Dumbarton Oaks Plan may or may not be endowed with a generally acceptable voting-system, but it cannot provide the certainty that in all circumstances every member will abide by the outcome of the vote.

For all the uncertainties attaching to the Plan in this respect (uncertainties which can never be entirely removed by other or better machinery because they depend, not on machinery but on the will to use it), the Netherlands Government nevertheless earnestly hope that it will be made possible for their country as for all other countries to participate in making a fresh experiment for the maintenance of international peace and security on the basis of the ultimate result of the Dumbarton Oaks conversations. So long as that result is not too imperfect, it will be infinitely better for all states, great and small, than no arrangement at all. But, apart from a number of points of secondary importance which can be dealt with at a later stage, there are two main questions which will certainly interest the people of the Netherlands to such an extent that the adhesion of the country to the Plan may well prove to be conditioned by the more or less satisfactory way in which they are solved. To these, attention may now be invited.

I

The first point which is of particular interest to the Netherlands, is the basis on which decisions of the organisation are to be reached, either by the General Assembly or by the Security Council. It is stated in chapter I of the draft that the purposes of the organisation should be, inter alia: to maintain international peace and security; and to that end to take effective collective measures for the prevention and removal of threats to the peace and the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means the adjustment or settlement of international disputes which may lead to a breach of the peace. And in chapter II, containing the principles of the Plan, it is explained that all members of the organisation should undertake to settle their disputes by peaceful means in such a manner that international peace and security are not endangered, whilst they are to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the organisation But there is no mention or indication anywhere in the proposals of the basis on which decisions are to be taken, except when a case is to be submitted to the international court of justice, when presumably international law is to be applied, or to arbitration which, according to the classic definition of the Hague conventions for the pacific settlement of international disputes (1899 and 1907), gives an adjudication on the basis of respect for law, a vague and not very satisfactory formula. With regard to all other cases (and they may well prove in practice to be the most crucial), there is no indication of any standard to be applied. It is only suggested that peace must not be endangered.

This proposal appears very unsatisfactory for the Netherlands who attach the highest value to the recognition of some acceptable standard of conduct in international affairs. What guarantee does this proposal afford victims of international violence that their cause will be upheld? Is it not tantamount to putting a premium on pressure brought to bear by stronger on weaker states? Instead of an obligation for the Security Council to enforce the duty of member-states, whether right or wrong, in no case to resort to violence, there would come into being an obligation for that Council to save the peace. Experience shows how easily this may come to be done by seeking solutions calculated to induce powers threatening to use violence to refrain from carrying out their threat; such solutions may well be at the expense of the threatened power, however innocent. The maintenance of international peace and security is a most desirable goal. But if, speaking ex hypothesi, a case arose of peace being bought at the price of what would be widely felt as injustice, that price might well seem unreasonable to many; such a settlement could not be expected to command respect and therefore to endure, and if another and better settlement were not found, the prestige of the Security Council and of the organisation generally, would suffer accordingly. In other words, it does not seem possible to leave everything to mere opportunism in matters such as considered here. A statement, duly embodied in the proposals where its absence is very striking, to the effect that some standard of justice will always be observed, would go a long way towards dissipating anxieties, and it appears difficult to see why, if the thing is self-evident, there could be any objection to making such a statement.

The question then is: how the standard to be observed should be formulated, and how appropriate measures can be devised to ensure its observation.

With regard to the first point, a reference to international law would appear to be inadequate, not only because it would exclude relevant considerations of another nature, but also because it may be doubted whether international law, in spite of its being subject to change and evolution, may be relied upon at all times and in all circumstances to provide a completely satisfactory standard. Legitimacy as a standard would undoubtedly be too static where a notion is needed allowing for growth and development. The Netherlands Government do not claim to have found the ultimate solution, but they have asked themselves whether a reference to those feelings of right and wrong, those moral principles which live in every normal human heart, would not be enough. That certainly is not a rigid or static notion.

The question of ensuring the observation of such a standard would, of course, be no less important. It clearly could not be left to the Security Council to decide, for if that were done this Council would be allowed to sit in judgment on its own proposals. Nor could it, for practical reasons, be left to the Assembly, or to the arbitrary appreciation of individual member-states. At this stage, the Netherlands Government only suggest that a solution will have to be found for this problem to make the Dumbarton Oaks Plan more generally acceptable. At the same time, they offer as a solution the appointment of an independent body of eminent men from a suitable number of different countries, men known for their integrity and their experience in international affairs, who should be readily available to pronounce upon decisions of the Security Council whenever an appeal to that effect were addressed to them, either by the Council or by a party to the case in question. This body, it should be emphasised, should pronounce upon the matter solely from the point of view of whether the Council's decision is in keeping with the moral principles above referred to, and should render its decision within a set number of days so as to avoid all undue delay and any diminution of the Council's effective and speedy handling of a given case.

It has rightly been said that the Security Council should have as much freedom of action as possible, and that this is no time to lay down hard and fast rules. But in the manner just indicated there is no question of laying down hard and fast rules, and the Council would retain the unfettered liberty of taking any decision except a decision of the kind against which the Dumbarton Oaks Plan contains no guarantee, and which in spite of its careful wording of principles and purposes it does not rule out.

II

The second point calling for special attention concerns that very thorny question: the relationship between the great powers and the smaller states. This is not the place for an exhaustive examination of this difficult problem. A few remarks would, however, seem indicated.

There were before the war, roughly, 491 million Chinese, 166 million citizens of the Soviet Union, 135 million Americans, 48 million nationals of the United Kingdom and Northern Ireland, and 42 million Frenchmen. The smaller nations of Europe comprise together about 150 million, and those of Latin America (to give only these two examples) another 100 million - no inconsiderable numbers, absolutely as well as relatively, of human beings with a right to the pursuit of freedom from fear equal to that of the nationals of the great powers. This memorandum is presented with a deep sense of responsibility towards nearly eighty million people living under the flag of the Netherlands, of whom roughly nine in Europe and seventy in Asia.

These millions of the smaller powers are entitled to an adequate voice in the councils of the organisation to be established. Their wish to live free from fear, the fact, already noted, that they are no menace to the general peace of the world, and the contribution so many of them have made to the common fund of human civilisation give them an irrefutable claim in this respect. In order that smaller nations may have an adequate voice, the mere fact that they are to have six places on the Security Council in its proposed composition does not seem to suffice. Here again, much depends on the voting system which will be devised. If decisions, of whatever importance, were to be taken on the basis of a majority vote, the result would be that the vote of one single small power would be enough to give the great powers a majority. Is it not to be feared that in the hard practice of international relations one such vote will always be available? It seems to the Netherlands Government that some safeguard will have to be found on this point, and a provision that the affirmative vote of at least three of the non-permanent members (one half of their total membership) of the Security Council would be required, would go far to allay what would appear to be legitimate apprehensions on this point on the part of the smaller powers.

This point is of particular interest to a state like the Netherlands which, by reason of its population, situation and resources is in a position, once the country is restored both in Europe and in Asia, to make a substantial contribution to the success of the Plan. The Netherlands Government consider that states who, without belonging to the great power class, are in that position, should always be adequately represented on the Security Council; they think that due provision should be made for that purpose in an appropriate form.

The Dumbarton Oaks Plan proclaims that it is based on the sovereign equality of all peace-loving states. At the same time, and apart from any rules still to be made on the subject of voting, it sanctions a special and privileged position for the great powers. They alone are to be permanent members of the Security Council. The Military Staff Committee is to be composed exclusively of their representatives. All such special privileges and inequalities are at variance with the principle of the sovereign equality of all peace-loving states. And yet, however peremptory the objections which, from the democratic, legal, and theoretical point of view may be made against special advantages for the mighty, it is recognised that in the present state of the international community it is necessary for the smaller powers, if there is to be a chance of building a new organisation for the maintenance of peace and security, to give a special place to the great powers, in return for which they are entitled to ask that these great powers show in practice that they are conscious of the special duties and responsibilities these concessions place upon them. In any case, whilst it may be necessary to invest power with special rights, the question is how far this should be allowed to go. The smaller powers, who are invited in the Dumbarton Oaks Plan to perpetuate and legalise an existing de-facto position of inferiority, may be permitted to point out that, if exorbitant special rights were granted virtually placing the great powers above the law, this Plan would be of little avail for the rest of the world, inasmuch as a return of the world to anarchy would not be excluded.

This seems of special importance when the system of voting comes under discussion. It has been said that a great power should have the right to reserve its attitude even if all others are agreed on a certain line of conduct to be taken. It is not clear to the Netherlands Government whether this right would be intended to be reserved for great powers with regard to all decisions of the Security Council, of whatever kind, or only with regard to decisions involving coercion, in one or another of its numerous forms, of third parties. In respect of questions involving coercion of third parties (that is to say of states to be coerced, whether they are members of the Security Council or not, other than the voting state), the Netherlands Government are inclined to believe that the international community is now sufficiently advanced to require every member of the organisation to undertake, by the fact of joining it, to cooperate loyally in applying any sanctions other than those consisting of the use of force, if these sanctions are decreed by the organisation in accordance with the rules of procedure. On the other hand, the Netherlands Government consider that every nation, great or small, should be at liberty in the absence of stipulations to the contrary in special regional agreements, in every separate case to determine whether or not it wishes to participate in the application of armed force. It has rightly been said that no nation, whatever its size, will ever allow itself to be committed by a Security Council to a war in which that nation does not believe; however regrettable this may be, the fact cannot be overlooked. Care should be taken not to repeat the mistake made in the Covenant of the League of Nations, by virtue of which every member-state was pledged to apply, if required, armed force against adversaries unknown in advance in the company of unknown partners and in unknown circumstances. That seems more than any state, great or small, can promise, and disappointment would surely follow upon disregard of this fact.

In respect of all questions, however, other than those concerning the use of armed force, the Netherlands Government consider that no state, great or small, should be granted the right of reserving its attitude.

Whether, on the other hand, the right of free appreciation in so far as it is to be granted, should ever take the extreme form of a right of veto (that is to say a right for individual powers to prevent the whole organisation from acting when a substantial majority or perhaps even all members but one or two deem action necessary, are agreed on the nature of the action and are ready to participate) - that would appear to be another matter. Here too, the distinction between any decision of the organisation, and the strictly limited category of decisions relating to coercive action may be useful. It is clear that a veto with regard to any action by the organisation would reduce its usefulness in respect of the maintenance of peace to little if anything, for it would mean that any power having the right of veto could prevent the discussion of any matter raised, with the result that there would be no international forum left before which the aggrieved state could legitimately plead its case; by accepting the Plan containing such a right of veto, it would have signed away its freedom to do so. The Netherlands Government therefore believe that, if there is to be any question of a right of veto, it can only be a right of veto with regard to measures of coercion, and they further think that, if insisted on, it should be restricted to cases of coercion by armed force. The Netherlands Government do not anticipate that any of the smaller powers will claim such a right of veto. 1) As for the great powers, the

---

1) For the right of free appreciation, However, vide supra.

Netherlands Government only wish to observe with regard to this point (a) that they cannot, of course, be blind to the fact that if unanimity between the great powers were required when it comes to the application of armed force against third parties, this would in certain cases be a substantial guarantee for the smaller powers, and (b) that the Netherlands Government have some difficulty in understanding why a great power should have a right of veto if questions are concerned in which that great power is only remotely interested.

It has also been said that a great power should have a right of veto not only when third parties are concerned, but also in a case in which that great power is itself a party. This is a very delicate subject, and far be it from the Netherlands Government to make any statement which would make agreement on an effective and workable plan more difficult. The following remarks are therefore offered in the hope that, without creating difficulties, they may at least make clear the provisional opinion of the Netherlands Government before any final action is taken in completing the drafting of the Plan.

The Netherlands Government believe that they understand the reasons and feelings which have led to the advancement of this claim, and they fully respect these motives. They also consider that it is the unassailable right of any country to state what conditions must be fulfilled if it is freely to enter into an association of nations. At the same time, the Netherlands Government think that they may state two things. The first is that, if the great powers were given the right of veto in cases to which they are a party, the Dumbarton Oaks Plan would only be useful for promoting the orderly settlement of international disputes between smaller states, and even this only on a limited scale because of the right of veto of the great powers. In cases of disputes between great powers, or between a great power and a smaller state, the Plan would afford no protection. Would this produce freedom from fear? - And in the second place, the Netherlands Government think that they may be permitted to say this: it is the good right of any great power to say that it will not enter into an association which gives authority to its members in certain circumstances to use force against that state. But it is difficult to see what advantage or attraction the Plan would have for the Netherlands if a right of veto were granted to great powers in their own cause.

It is quite true, of course, that coercion of a great power by armed force is an operation of very great magnitude. But in the opinion of the Netherlands Government this cannot justify an organisation for the maintenance of international peace and security if it is to be worthy of that name, in desisting from the outset and *a priori*, from the use of force against a great power. Yet so great a limitation of the organisation's scope would result from a veto being given to great powers in their own cause. Is it not greatly to be preferred that coercion of a great power by armed force, should the case ever arise, be decided upon and carried out in an orderly manner by a recognised organ of the international community, rather than leave it once more to the hazardous interplay of combinations of the moment?

If this Government may express a hope, it is that the right of veto in a power's own cause be not insisted on by any state. This right can, so far as the Netherlands Government are aware, only be claimed on three grounds: that the powers concerned are genuinely peace-loving so that any decision against them would at all times be wrong and unjustified; that their good faith should not be doubted, with the same conclusion; or that they need a safeguard against possible conspiracies of others. With regard to the first argument, it may be asked why there should be any need to make a Security Plan if the possibility is to be ruled out that some time, perhaps only in the distant future, some member-state, great or small, may break international peace? Secondly, the question of good faith should, in the opinion of the Netherlands Government, play no part. This has nothing to do with good faith: a power may, and probably would, wish to veto in perfect good faith, convinced of the righteousness of its own cause, the use of force against itself. Moreover, if belief in attachment to peace and in good faith were demanded by the great powers on behalf of themselves, the smaller powers would be justified in asking what good reason there can be to suspect that they, the smaller powers, are less genuinely peace-loving, or that their good faith is doubtful or worse. What is there in their past record, as contrasted with that of the great powers, to justify the claim that in respect of them, and of them only, the application of coercion should always be possible? And finally, with regard to the third ground, is there any power, great or small, which need fear that it may become a victim, *as a result of its adhesion to the Dumbarton Oaks Plan*, of a conspiracy of others, so that reservation of a right of veto with regard to themselves is necessary of member-status? To the Netherlands Government it seems difficult, at any rate, to see in what measure such a contingency is, in point of fact, less likely to arise if a right of vetoing coercion is conceded to a power in its own cause, than if it is not conceded. It affords no real protection.

The points raised under this heading may be summarised as follows:

(1) consent of one half of the smaller states represented on the Security Council to be required for decisions being taken;

(2) due representation on the Security Council to be assured to states which, in order of importance, rank immediately after the great great powers;

(3) with regard to voting:

    (a) no veto to be given to any state except, if this were to be considered necessary in questions of coercion by armed force of third parties, and then only to the great powers directly concerned;

    (b) no right of free appreciation with regard to decisions duly arrived at to be given to any state, except in questions of coercion by armed force of third parties, and then to all states, great or small (except when expressly stipulated otherwise in special regional agreements), and whether these states are members of the Security Council or not.

A few provisional remarks remain to be made on special subjects.

1. The Plan does not exclude regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided such arrangements or agencies and their activities are consistent with the purposes and principles of the organisation. On the contrary the Security Council is encouraged to use such arrangements or agencies. The Netherlands Government welcome this stipulation as stated. Nothing, in fact, would seem to them more dangerous for the peace of the world than regional groupings which, however good the intentions which gave rise to their formation, may at any time be set against each other or against any given state for want of proper and adequate coordination.

2. It has already been observed that the Plan as it stands provides no sufficient safeguards that the interests of the smaller powers will be duly taken into account in the Military Staff Committee. In order that these interests be duly safeguarded, it is not enough that the Committee should have the duty (as stated in the Plan) to invite any member of the organisation not permanently represented on the Committee to be associated with it when the efficient discharge of the Committee's responsibilities require that such a state should participate in its work. What is also necessary is that any member should have the right on its own initiative to lay before the Committee, either orally or in writing, questions properly belonging to the Committee's field of action, to have these questions discussed with the Committee in the form of an exchange of views, and to receive an answer in due course.

With regard to the actual planning of military operations, the Netherlands Government suppose that the Military Staff Committee could do that part of its work only to prepare campaigns against powers not represented on that body, that is to say against the vanquished enemy powers (if no special machinery were to be established to deal with them), or against the smaller powers, however unlikely it may be that these will ever break the peace of the world. For such plans must needs remain unknown to those against whom they are directed, and since the great powers are all represented on the Committee, they would be exactly informed with regard to any measures planned against any of them. In this respect, therefore, the usefulness of the Committee should not be overestimated.

3. It will, no doubt, be understood if the Netherlands Government show a special interest in the proposed International Court of Justice. They welcome the proposals contained in the Plan for such a Court, in particular in so far as they envisage the continuation, after the necessary readjustments, of the existing Permanent Court of International Justice. Full opportunity should be given to all states to participate in the drafting of the Court's statute, and it is hoped that to that end such preparatory work as has already been done will be found useful. 1) Experience

---

1) An informal committee consisting of experts from Belgium, Canada, Czechoslovakia, France, Great Britain and Northern Ireland, Greece, Luxemburg, the Netherlands, New Zealand, Norway and Poland, who happened to be available in London, has drafted a report on the future Court of International Justice.

shows that every possible safeguard should be inserted in the statute to ensure as far as possible that the judges composing the Court not only are -, but will also be recognised as being impartial and independent. Furthermore, it would seem desirable to the Netherlands Government in the interest of international justice that the Plan should contain an express stipulation to the effect that all member-states (1) recognise the Court as having compulsory jurisdiction in justiciable disputes to which they are a party and for the solution of which the parties do not agree on another mode of settlement, and (2) recognise the Court's findings as binding.

4. The Netherlands Government warmly welcome the provisions of the draft concerning arrangements for international economic and social cooperation. They consider that the Economic and Social Council to be created may be of great use for promoting a better understanding of international economic and social problems. They hope that this Council will be provided with a research department which would make available to the general public in all countries, on a strictly scientific basis, studies calculated to promote insight in those problems, which in the past have so often, for lack of better knowledge, tended to cast heavy shadows on the relations between many countries.

These are the observations which, actuated by the sincere desire to make a contribution, however modest, to the success of the Dumbarton Oaks Plan, the Netherlands Government have to offer at the moment. At the same time, they wish to point out that their attitude must be one of reserve so long as the Plan is incomplete and in particular so long as the voting system to be inserted in the Proposals has not been fully worked out. Also, they can only repeat that the final decision concerning the attitude to be taken by the Netherlands Government rests with the Netherlands people, who will form their opinion through sober appraisal of the real merits of the completed Plan.

January, 1945.

The United Nations Conference
on International Organization

Doc. 2 (English)
G/7(j)(1)
May 1, 1945

GENERAL

AMENDMENTS TO THE PROPOSALS FOR THE MAINTENANCE OF PEACE AND SECURITY AGREED ON AT THE FOUR POWERS CONFERENCE OF DUMBARTON OAKS SUPPLEMENTED AS A RESULT OF THE CONFERENCE OF YALTA, SUBMITTED BY THE NETHERLANDS DELEGATION TO THE SAN FRANCISCO CONFERENCE

In January 1945, the Netherlands Government have presented certain suggestions to the Governments of the United Nations and the Governments associated with them in the present war, concerning the Proposals for the maintenance of peace and security agreed on at the Four Powers Conference of Dumbarton Oaks as published on October 9, 1944. Having taken cognizance of the results of the Yalta Conference with regard to these Proposals and of a number of observations made by various Governments and in the course of public discussion, the Netherlands Government have instructed their Delegation to submit the following amendments for consideration by the Conference. Whilst some of these amendments are of a largely technical nature, others concern matters of principle to which the Netherlands Government attach the greatest importance.

I

CHAPTER I (PURPOSES) AND II (PRINCIPLES)

Alternative Amendment

A (in case B is not accepted)

Insert in Chapter I sub 1 after the words "To maintain international peace and security";

"in conformity with the elementary principles of morality and justice and on the basis of due regard for international law",

or

B (in case A is not accepted)

Insert in or add to the Chapter a statement setting forth the fundamental rights and duties of States.

Comment:

The Proposals state that one of the purposes of the Organisation should be: to maintain international peace and security. They do not state on which basis international peace and security should be maintained. The Netherlands Government consider the express indication of that basis as being indispensable. In the opinion of the Netherlands Government, this could be done by adopting either amendment A or B.

It is observed in this connection that the proposed voting procedure in the Security Council gives the permanent members of that Council special rights which tend to weaken the position of the other members of an Organisation based on the principle of the sovereign equality of all peace-loving states. The adoption of either of the amendments mentioned under A and B would afford these other members some reasonable compensation for and correction of this inequality.

As an example of a statement setting forth the fundamental rights and duties of states as mentioned sub B, the annex to this document reproduces "The principles for the International Law of the Future", formulated by a number of American and Canadian lawyers and published by the Carnegie Endowment for International Peace in its "International Conciliation"--Bulletin of April, 1944.

II

CHAPTER III (MEMBERSHIP)

Insert in paragraph 1 after the words "Membership of the Organisation should be open to all peace-loving states":

"which may be expected on account of their institutions and by their international behaviour faithfully to observe and carry out international commitments."

Comment:

The insertion of this rule, however important, would not appear to be necessary in so far as the States represented at the San Francisco Conference are concerned. The insertion would, however, seem to be useful in view of the admission into the Organisation at some future date of other States who, in order to qualify for admission, would thus be required to have given conclusive proof of their firm adherence to the rule "pacta sunt servanda".

III

CHAPTER V SECTION B

(FUNCTIONS AND POWERS OF THE GENERAL ASSEMBLY)

Insert at the end of the first sentence of par. 3:
", and to raise the suspension of that member".

IV

CHAPTER V SECTION B

(FUNCTIONS AND POWERS OF THE GENERAL ASSEMBLY)

Insert at the end of par. 5:

"A member of the Organisation which has not in due time paid its portion of the expenses loses its right to vote in the Assembly and, if a member of the Security Council, forfeits its seat thereon."

Comment:

A rule of this nature would tend to minimize the accumulation of arrears.

V

CHAPTER VI SECTION C (VOTING)

Paragraph 3 to read:

Decisions of the Security Council on all other matters should be made by an affirmative vote including the concurrent votes of the permanent members and of one half of, or--in cases in which the number of non-permanent members entitled to vote is uneven--the majority of the non-permanent members, provided that in decisions under Chapter 8, Section A and under the second sentence of paragraph 1 of Chapter 8, Section C, a party to a dispute should abstain from voting".

Comment:

> It seems desirable, if the interests of the non-permanent members of the Security Council are to be duly safeguarded, to prevent that a decision of the Security Council can be taken by a majority consisting of the votes of the permanent members plus that of only two non-permanent members.

VI

CHAPTER VIII

(ARRANGEMENTS FOR THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY INCLUDING PREVENTION AND SUPPRESSION OF AGGRESSION)

1. Section A (Pacific Settlement of Disputes and Determination of Threats to the Peace or acts of aggression)

Add two new paragraphs at the end of this Section, reading as follows:

8. "Should the Security Council deem that a failure to settle a dispute in accordance with procedures indicated in paragraph 3 of Section A, or in accordance with its recommendations made under paragraph 5 of Section A, constitutes a threat to the maintenance of international peace and security, it should determine the existence of such a threat".

9. "In general the Security Council should determine the existence of any threat to the peace, breach of the peace or act of aggression".

2. Section B (Action with respect to the existence of Threats to the Peace or Acts of Aggression)

Paragraphs 1 and 2 to read as follows:

"1. Should the Security Council under paragraph 8 of Section A determine the existence of a threat to the maintenance of international peace and security, it should take any measures necessary for the maintenance of international peace and security in accordance with the purposes and principles of the Organisation".

"2. Should the Security Council in general, under paragraph 9 of Section A determine the existence of any threat to the peace, breach of the peace or act of aggression, it should decide upon the measures to be taken to maintain or restore peace and security".

3. In connection with sub 1 and 2 above, Section A should bear the following title:

"Pacific Settlement of Disputes and Determination of Threats to the Peace or Acts of Aggression"; and Section B the title: "Action with respect to Existence of Threats to the Peace or Acts of Aggression".

Comment:

> A distinction should be made, so far as voting is concerned, between the quasi-judicial function of the Security Council in promoting the pacific settlement of disputes and its executive function in taking action for the maintenance of peace and security. It would seem desirable to treat the function of the Security Council in determining the existence of any threat to the peace, breach of the peace or act of aggression, as part of its quasi-judicial function and to stipulate therefore that in such cases also, a party to a dispute should abstain from voting.

VII

CHAPTER VI SECTION D (PROCEDURE)

Insert at the end of paragraph 5:

", and shall enjoy the same position with regard to discussion and voting as the other party to the dispute".

Comment:

The adoption of this rule appears necessary if, as seems desirable, the position of parties to a dispute mentioned in this paragraph is to be equal.

VIII

CHAPTER VII

(AN INTERNATIONAL COURT OF JUSTICE)

Insert a new paragraph reading as follows:

"The Court shall give an advisory opinion of any legal question referred to it by the General Assembly or the Security Council".

Comment:

If this Amendment is adopted the second sentence of paragraph 6 of Section A of Chapter VIII should be deleted.

In connection with Chapter XII (Transitional Arrangements) the Netherlands Delegation has been instructed to propose that an international commission be appointed by the General Assembly in its first meeting to determine to what extent and in what manner rights and duties of the League of Nations laid down in various international conventions should be transferred to the new Organisation or otherwise dealt with.

The Netherlands Government recommend that the provisions of the League of Nations Covenant with regard to the registration of Treaties as a condition for their validity be retained in the Charter of the new Organisation.

Annex

PRINCIPALS FOR THE INTERNATIONAL LAW OF THE FUTURE

PRINCIPLE 1

Each State has a legal duty to carry out in full good faith its obligations under international law, and it may not involve limitations contained in its own constitution or laws as an excuse of a failure to perform this duty.

PRINCIPLE 2

Each State has a legal duty to see that conditions prevailing within its own territory do not menace international peace and order, and to this end it must treat its own population in a way which will not violate the dictates of humanity and justice or shock the conscience of mankind.

PRINCIPLE 3

Each State has a legal duty to refrain from intervention in the internal affairs of any other State.

PRINCIPLE 4

Each State has a legal duty to prevent the organisation within its territory of activities calculated to foment civil strife in the territory of any other State.

PRINCIPLE 5

Each State has a legal duty to cooperate with other States in establishing and maintaining agencies of the Community of States for dealing with matters of concern to the Community, and to collaborate in the work of such agencies.

PRINCIPLE 6

Each State has a legal duty to employ pacific means and none but pacific means in seeking to settle its disputes with other States, and failing settlement by other pacific means to accept the settlement of its disputes by the competent agency of the Community of States.

PRINCIPLE 7

Each State has a legal duty to refrain from any use of force and from any threat to use force in its relations with another State, except as authorized by the competent agency of the Community of States; but subject to immediate reference to and approval by the competent agency of the Community of States, a State may oppose by force an unauthorized use of force made against it by another State.

PRINCIPLE 8

Each State has a legal duty to take, in cooperation with other States, such measures as may be prescribed by the competent agency of the Community of States for preventing or suppressing a use of force by any State in its relations with another State.

PRINCIPLE 9

Each State has a legal duty to conform to the limitations prescribed by the competent agency of the Community of States and to submit to the supervision and control of such an agency, with respect to the size and type of its armaments.

PRINCIPLE 10

Each State has a legal duty to refrain from entering into any agreement with another State, the performance of which would be inconsistent with the discharge of its duties under general international law.

The United Nations Conference
on International Organization

Doc. 2 (ENGLISH)
G/7 (j) (2)
May 6, 1945

GENERAL

ADDITIONAL PROPOSAL SUBMITTED BY THE NETHERLANDS DELEGATION

The Netherlands Delegation proposes that among the functions of the Economic and Social Council, enumerated in chapter IX, section C, paragraph 1, of the Dumbarton Oaks Proposals be inserted, either by amending the relative clause under e, or in some other appropriate manner or place, the duty of the Council "to enable the Secretary-General to provide economic and social information to the General Assembly and to the Member States".

It is thought necessary in order to further the solution of economic and social problems that the excellent statistical work undertaken by the Financial and Economic Section of the League of Nations be continued in the new World Organization.

The United Nations Conference
on International Organization

[illegible]

[illegible]

[illegible]

[illegible]

The United Nations Conference
on International Organization

Doc. 2 (ENGLISH)
G/14(f)
May 2, 1945

GENERAL

AMENDMENTS TO THE DUMBARTON OAKS PROPOSALS (Document 1 G/1) SUBMITTED BY THE DELEGATION OF NEW ZEALAND.

CHAPTER I - PURPOSES:

I. Page 1 line 3 Insert after the word "security" the words "and to preserve as against external aggression the territorial integrity and political independence of every member of the Organisation."

CHAPTER II - PRINCIPLES:

II. Page 2 line 6 Insert after paragraph 1 a new paragraph as follows:

"1a. All members of the Organisation solemnly reaffirm and pledge themselves to the principles of the Atlantic Charter of August 14th, 1941, and the United Nations Declaration of January 1st, 1942."

III. Page 2 line 10 Insert after paragraph 2 a new paragraph as follows:

"2a. All members of the Organisation undertake to preserve, protect, and promote human rights and fundamental freedoms, and in particular the rights of freedom from want, freedom from fear, freedom of speech and freedom of worship."

IV. Page 2 line 16 Insert after paragraph 4 a new paragraph as follows:

"4a. All members of the Organisation undertake collectively to resist every act of aggression against any member."

CHAPTER IV - PRINCIPAL ORGANS:

V. Page 3 line 10 Insert after sub-paragraph b, a new sub-paragraph as follows:

"b I. An Economic and Social Council."

CHAPTER V - THE GENERAL ASSEMBLY:

VI. Page 3 line 20 Insert after the word "Powers" a new paragraph as follows:

"0 1. The General Assembly shall have the right to consider any matter within the sphere of international relations."

VII. " " Insert at the beginning of paragraph I the words "In particular."

VIII. Page 4 line 8 Delete the words "The General Assembly should not on its own initiative make recommendations on any matter relating to the maintenance of international peace and security which is being dealt with by the Security Council."

IX. Page 4 line 14 Delete the words "upon recommendation of the Security Council."

X. Page 4 line 21 Insert after the word "Council" the words "or which in any way shall have violated the obligations of membership."

XI. Page 4 line 22 Insert after the word "decision" the words "of the General Assembly upon recommendation."

CHAPTER VI - THE SECURITY COUNCIL:

XII. Page 7 line 14 Insert before the word "These" the words "Unless the Assembly otherwise decides."

XIII. Page 7 line 16 Insert after the word "year" the word "and".

CHAPTER VIII - ARRANGEMENTS FOR THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY, INCLUDING THE PREVENTION AND SUPPRESSION OF AGGRESSION:

XIV. Page 14 line 17 Insert after paragraph 4 a new paragraph as follows:

"4a (a) A decision of the Security Council involving the application of the measures contemplated in paragraphs (3) and (4) of Chapter VIII Section B shall require the concurring vote of the General Assembly, deciding by a simple majority.

(b) Nevertheless, in any case which, in the opinion of the Security Council, is of extreme urgency, the Security Council may decide to apply such measures forthwith without the concurring vote of the General Assembly; but in every such case it shall forthwith report its decision to the General Assembly.

(c) Every decision made in accordance with sub-paragraphs (a) and (b) of this paragraph shall be binding on all members of the Organisation."

XV. Page 14 line 22 Delete the words "among themselves" and substitute the following words therefor: "with it."

XVI. Page 17 line 15 Delete the words "are consistent with the purposes and principles of the Organisation" and substitute the following words therefor: "are approved by the Organisation as being consistent with its purposes and principles."

CHAPTER IX - ARRANGEMENTS FOR INTERNATIONAL ECONOMIC AND SOCIAL CO-OPERATION:

XVII. Page 19 line 4 Insert at the beginning of this section the words:

"Unless the General Assembly otherwise decides, the following provisions will be in force:-"

XVIII. Page 20 line 14 Delete paragraphs 1, 2 and 3 of Section D and substitute the following words therefor:

"The Economic and Social Council may set up such subordinate bodies and make such arrangements concerning its organisation and procedure as it may decide."

May 1, 1945

The United Nations Conference on International Organization

Doc. 2 (ENGLISH)
G/14(f)
May 2, 1945

GENERAL

AMENDMENTS TO THE DUMBARTON OAKS PROPOSALS (Document 1 G/1) SUBMITTED BY THE DELEGATION OF NEW ZEALAND.

CHAPTER I - PURPOSES:

I. Page 1 line 3 Insert after the word "security" the words "and to preserve as against external aggression the territorial integrity and political independence of every member of the Organisation."

CHAPTER II - PRINCIPLES:

II. Page 2 line 6 Insert after paragraph 1 a new paragraph as follows:

"1a. All members of the Organisation solemnly reaffirm and pledge themselves to the principles of the Atlantic Charter of August 14th, 1941, and the United Nations Declaration of January 1st, 1942."

III. Page 2 line 10 Insert after paragraph 2 a new paragraph as follows:

"2a. All members of the Organisation undertake to preserve, protect, and promote human rights and fundamental freedoms, and in particular the rights of freedom from want, freedom from fear, freedom of speech and freedom of worship."

IV. Page 2 line 16 Insert after paragraph 4 a new paragraph as follows:

"4a. All members of the Organisation undertake collectively to resist every act of aggression against any member."

CHAPTER IV - PRINCIPAL ORGANS:

V. Page 3 line 10 Insert after sub-paragraph b, a new sub-paragraph as follows:

"b I. An Economic and Social Council."

CHAPTER V - THE GENERAL ASSEMBLY:

VI. Page 3 line 20 Insert after the word "Powers" a new paragraph as follows:

"0 1. The General Assembly shall have the right to consider any matter within the sphere of international relations."

VII. " " Insert at the beginning of paragraph I the words "In particular."

VIII. Page 4 line 8 Delete the words "The General Assembly should not on its own initiative make recommendations on any matter relating to the maintenance of international peace and security which is being dealt with by the Security Council."

IX. Page 4 line 14 Delete the words "upon recommendation of the Security Council."

X. Page 4 line 21 Insert after the word "Council" the words "or which in any way shall have violated the obligations of membership."

XI. Page 4 line 22 Insert after the word "decision" the words "of the General Assembly upon recommendation."

CHAPTER VI - THE SECURITY COUNCIL:

XII. Page 7 line 14 Insert before the word "These" the words "Unless the Assembly otherwise decides."

XIII. Page 7 line 16 Insert after the word "year" the word "and".

CHAPTER VIII - ARRANGEMENTS FOR THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY, INCLUDING THE PREVENTION AND SUPPRESSION OF AGGRESSION:

XIV. Page 14 line 17 Insert after paragraph 4 a new paragraph as follows:

"4a (a) A decision of the Security Council involving the application of the measures contemplated in paragraphs (3) and (4) of Chapter VIII Section B shall require the concurring vote of the General Assembly, deciding by a simple majority.

(b) Nevertheless, in any case which, in the opinion of the Security Council, is of extreme urgency, the Security Council may decide to apply such measures forthwith without the concurring vote of the General Assembly; but in every such case it shall forthwith report its decision to the General Assembly.

(c) Every decision made in accordance with sub-paragraphs (a) and (b) of this paragraph shall be binding on all members of the Organisation."

XV. Page 14 line 22 Delete the words "among themselves" and substitute the following words therefor: "with it."

XVI. Page 17 line 15 Delete the words "are consistent with the purposes and principles of the Organisation" and substitute the following words therefor: "are approved by the Organisation as being consistent with its purposes and principles."

CHAPTER IX - ARRANGEMENTS FOR INTERNATIONAL ECONOMIC AND SOCIAL CO-OPERATION:

XVII. Page 19 line 4 Insert at the beginning of this section the words:

"Unless the General Assembly otherwise decides, the following provisions will be in force:-"

XVIII. Page 20 line 14 Delete paragraphs 1, 2 and 3 of Section D and substitute the following words therefor:

"The Economic and Social Council may set up such subordinate bodies and make such arrangements concerning its organisation and procedure as it may decide."

May 1, 1945

The United Nations Conference
on International Organization

Doc. 2 (ENGLISH)
G/14 (f) (1)
May 4, 1945

GENERAL

AMENDMENT TO THE DUMBARTON OAKS PROPOSALS (DOCUMENT I, G/I), SUBMITTED BY THE DELEGATION OF NEW ZEALAND

CHAPTER X - THE SECRETARIAT:

Page 21 Line 21: Insert at the end of Chapter X two new paragraphs as follows:-

"4 The responsibilities of the Secretary-General and staff of the Organisation shall be exclusively international in character. They shall not seek or receive instructions in regard to the discharge of such responsibilities from any authority external to the Organisation and shall avoid any action which might prejudice their position as international officials.

The members of the Organisation undertake fully to respect the international character of the responsibilities of the Secretary-General and staff and not to seek to influence any of their nationals in the discharge of such

responsibilities."

"5 In appointing the staff the Secretary-General shall, subject to the paramount importance of securing the highest standards of efficiency and of technical competence, pay due regard to the importance of selecting staff recruited on as wide a geographical basis as possible."

The United Nations Conference on International Organization

Doc. 2 (ENGLISH)
G/14(f) (2)
May 6, 1945

GENERAL

ADDITIONAL AMENDMENT TO THE DUMBARTON OAKS PROPOSALS BY THE NEW ZEALAND DELEGATION

It is desired to add the following paragraph to the Amendment of Chapter IX, Section D of the Dumbarton Oaks Proposals listed as Amendment No. XVIII in the schedule of Amendments tabled by the Delegation of New Zealand on May 1, and circulated as Conference Document 2, G.14 (F).

> "World organisations concerned with industry, agriculture, labour and other subjects within the competence of the Economic and Social Council, including the International Labour Organisation, and such specialised organisations or agencies as may be brought into relationship with the Organisation, shall be represented, where appropriate, on the subordinate bodies which the Economic and Social Council may set up."

The United Nations Conference
on International Organization

Doc. 2 (ENGLISH)
G/7 (n) (1)
May 4, 1945

GENERAL

AMENDMENTS AND OBSERVATIONS ON THE DUMBARTON OAKS PROPOSALS, SUBMITTED BY THE NORWEGIAN DELEGATION, MAY 3, 1945

DUMBARTON OAKS PROPOSALS

The Norwegian Delegation begs to submit the following amendments (I) and observations (II):

I

AMENDMENTS

Doc. 1 G/1
P.1, L.14-15

Chapter I, 3.

.... of international political, economic, social, humanitarian, educational and other cultural problems; ......

Reasons:

The text has been amended with a view to comprising the whole field of peaceful international cooperation, cpr. Chapter V, B, 6. See also Observations (II), 8.

P.1, L.17

Chapter I, 4.

.... in the achievement of common ends (delete the word "these").

Reasons:

If anything in the nature of "common ends" is left out above, it would be included by this new wording which would prevent uselessly restrictive interpretations.

P.2, L.15-16 Chapter II, 4.

.... threat of force and from any use of force not approved by the Security Council as a means of implementing the purposes of the Organization.

Reasons:

The plea might be put forward that force or threat of force used by a member state in order to secure the fulfillment of a final international award or a recommendation by the Security Council would not be inconsistent with the purpose of the Organization, cpr. Chapter VIII, C, 2 in fine.

P.2, L.23 Chapter II

Add new 7:

All members of the Organization undertake to defend life, liberty, independence and religious freedom and to preserve human rights and justice.

Reasons:

This amendment reproduces the United Nations Declaration of January 1st, 1942. Alternatively one might use the same expression as in Chapter IX, A, 1, and say: "undertake to respect human rights and fundamental freedoms".

P.3, L.6 Chapter III.

.... peace-loving States whose governments can be relied upon to work in harmony with the purposes and principles of the Organization.

Reasons:

The fact that a State is considered to be peace-loving calls for the further qualification that it has a government fulfilling certain conditions.

P.4, L.6 Chapter V, B, 1.

Insert after the word "questions" the following sentence: It should also have the right to present recommendations to member states with regard to the recognition of new Governments or new States.

Reasons:

The obligations of a State cannot be properly assumed nor can its rights be exercised except by a recognized government.

P.4, L.12 Chapter V, B, 1.

Add: The General Assembly may refer to the Permanent Court of International Justice for advisory opinion any legal question arising in matters on which it has the right to make recommendations.

Reasons:

The Assembly may be faced with difficult legal questions on which it should be empowered to request an advisory opinion of the Court.

P.4, L.21-23 and P.5, L.1-3 Chapter V, B, 3

.... or whose Government persistently violates the principles contained in the Charter or fails to meet its financial obligations under the Charter. The exercise of the rights and privileges thus suspended may be restored by decision of the General Assembly on the recommendation of the Security Council. (Delete the last sentence).

Reasons:

It is felt that the Assembly ought to have the same competence to restore privileges and rights as it has to suspend a member from these privileges and rights. No useful purpose is served by expelling a member State, the only additional effect of expulsion being to relieve the State of its obligations under the Charter. On the other hand, suspension ought to be a sanction available against a State whose government persistently violates its engagements. It is also necessary to give the Assembly means of enforcing payment of contributions to the Organization.

P.5, L.18 Chapter V, B, 6.

.... cooperation in political, economic, social, humanitarian, educational and other cultural fields ......

Reasons:

The furtherance of intellectual cooperation is a major task incumbent on the General Assembly.

P.6, L.13-14 Chapter V, C, 2.

Delete the words "expulsion of members" and add: restoration of such rights and privileges; request for advisory opinions of the Permanent Court of International Justice; recommendations with respect to recognition of new governments and new States.

Reasons:

See preceding amendments.

P.7, L.20 Chapter VI, B.

Title.
Delete the word "Principal".

Reasons:

As a matter of legal principle, the functions and powers of the organs of the Organization should be exhaustively stated in the Charter.

P.8, L.6 Chapter VI, B, 2.

Add: ...., the provisions of the Charter and the consideration that no solution should be imposted upon a State of a nature to impair its confidence in its future security or welfare.

Reasons:

The rules of conduct otherwise determined by the purposes and principles are here specified in a direction where doubts might otherwise arise.

P.8, L.22 Chapter VI, B.

Add new 6. The Security Council is empowered to enforce by appropriate means the execution of any final decision in a dispute between States delivered either by the Permanent Court of International Justice or by any other tribunal whose jurisdiction in the matter has been recognized by the States parties to the dispute.

Reasons:

The auto-execution by a State having obtained judgment in its favour should be excluded, but the corollary is that the Security Council may act even if no threat to the peace is involved in the particular dispute or in the non-execution of the judgment.

P.8, L.22 Chapter VI, B.

Add new 7. The Security Council should perform such functions in relation to the election of the judges of the Permanent Court of International Justice as may be conferred upon it by the Statute of the Court.

Reasons:

See the analogous provision of Chapter V, B, 4.

P.9, L.8 Chapter VI, C, 3.

.... vote of eight members, ...

Reasons:

It is felt necessary to demand the concurrence of three non-permanent members of the Council in all cases where unanimity of the permanent members is requested since the decisions would inevitably come to be regarded as Great Powers decisions if only two concurrent votes of non-permanent members were requested.

P.10, L.17 - P.11, L.13 Chapter VII

The Permanent Court of International Justice.

1. The Permanent Court of International Justice shall constitute the principal judicial organ of the Organization.

2. The Court shall function in accordance with the Statute which, constituting a revision

of the Statute drawn up in 1920 and revised in 1929, is annexed to this Charter as a part thereof.

3. All members of the Organization shall ipso facto be parties to the Statute of the Court.

4. The conditions under which States not members of the Organization may become parties to the Statute of the Court shall be determined in each case by the General Assembly upon recommendation of the Security Council; but this provision shall not apply to such States as are already parties to the Statute drawn up in 1920 and revised in 1929 and, at the invitation of the General Assembly upon recommendation of the Security Council, accept the revision embodied in the text of the annexed Statute, by a declaration addressed to the Secretary-General of the Organization.

Reasons:

By these amendments, it is intended to bring the Charter into conformity with the draft Statute prepared by the Jurist Committee, Washington, D.C., April 20th, 1945.

P.11, L.22 Chapter VIII, A, 1

Add: The Security Council may refer to the Permanent Court of International Justice for advisory opinion any legal question connected with such dispute or situation.

Reasons:

In the original draft, Chapter VIII, A, 6, the last sentence is too restrictive in that it does not authorize the Security Council to request advisory opinions in connection with "justiciable" disputes or on legal questions arising out of a "situation which may lead to international friction or give rise to a dispute". Extended accordingly, this provision seems better at its place in the present connection.

P.13, L.2-4 Chapter VIII, A, 6.

Delete the last sentence of this paragraph.

Reasons:

See the preceding amendment.

P.13, L.5-8 Chapter VIII, A, 7.

Delete this paragraph.

Reasons:

As long as the procedure instituted by the Security Council is one of pacific settlement of disputes, the party in whose domestic jurisdiction a matter belongs will always have the right to present this plea. Consequently, the original draft affords no real additional protection at this stage. On the other hand, the Security Council should not be prevented from recommending a procedure or method by the mere fact that a matter involved in the dispute or situation belongs in the domestic jurisdiction of a party.

P.14, L.10 Chapter VIII, B, 3.

Add: In the relations between members of the organization this obligation takes precedence over the execution of stipulations contained in commercial or other treaties; and in their relations with States not members of the Organization, member States should in the manner provided for in such treaties take steps to regain the necessary freedom of action.

Reasons:

The rules of International Law continue to bind States in so far as the Charter does not derogate from them. An express stipulation seems necessary even if a clause is inserted in the Charter to the effect that all treaties or treaty clauses incompatible with its terms are annulled as between the members.

P.14, L.17 Chapter VIII, B, 4.

Add: The Security Council may further, in special cases, and for the period of time deemed necessary, take over on behalf of the Organization, the administration of any territory of which the continued *administration by the State in possession is found to constitute a threat to the peace.*

Reasons:

The list would seem to be incomplete without this addition.

P.18, L.14 Chapter IX, A, 1.

.... economic, social, humanitarian, *educational and other cultural* problems.

Reasons:

See preceding amendments.

P.19, L.17-19 Chapter IX, C, 1, b.

.... *to submit*, on its own initiative, *for the consideration of the General Assembly*, recommendations with respect to international, economic, social, humanitarian, *educational and other cultural* matters.

Reasons:

The amendment is suggested with a view to ensure to the General Assembly the final say in all these activities which by their nature are world-wide in scope and mutually interacting.

P.19, L.20 - P.20, L.2 Chapter IX, C, 1, c.

To receive and *forward to the General Assembly, with appropriate comments*, reports from the economic, social and other organizations or agencies brought into relationship with the Organization, and to coordinate *under the direction of the General Assembly* their activities through consultation with, and recommendations to, such organizations or agencies.

Reasons:

See above.

P.20, L.4-6 Chapter IX, C, 1, d.

.... with a view to *submitting to the General*

Assembly appropriate comments together with the recommendations, if any, to be addressed to the organizations or agencies concerned.

Reasons:

See above.

P.22, L.6 Chapter XI.

Add: If the amendment concerns Chapter 1 (Purposes) or Chapter II (Principles) or Chapter VI, Section B, 2 (Rules of action for the Security Council) and has for effect to increase the obligations of a member State, such State, having voted against the amendment, may deposit a declaration, accompanied by reasons, not to be bound by such amendment.

Reasons:

Under the principles of constitutional law, no government can validly undertake indeterminate obligations of a vital character. It seems therefore necessary to introduce some sort of a constitutional safeguard.

II

Observations

The Norwegian Delegation ventures to draw attention to the following points, without submitting, for the present, any definite text.

1. The Norwegian Delegation is of the opinion that the Charter should contain express provision to the effect that the Organization shall be guided by the principles of justice. The Delegation is aware that the sponsoring governments concur in a Chinese amendment to this effect. The question will be discussed in Committee, and the Norwegian Delegation at the present therefore refrains from formulating a specific amendment of its own.

2. If, in Chapter II, 1, contrary to the

judgment of the Norwegian Delegation, it should be found necessary to describe further the States whose sovereign equality this paragraph proclaims, it would perhaps be better to substitute for "peace-loving" the fuller expression "States attached in their international relations to the cause of peace and justice".

3. In Chapter VI, A, the terms setting forth the composition of the Council should be altered so as to make it clear that States, not persons, are members.

4. In Chapter VI, A, it is proposed that the non-permanent members of the Security Council "should not be immediately eligible for re-election". This provision would seem to imply that the member can be re-elected at the next following election to the Security Council. It would perhaps be more conducive to an equitable distribution of the non-permanent seats in the Security Council if it were provided that a member after serving its term would have to wait at least for another full term before becoming again eligible.

5. In Chapter VI, D, 1, the text should be amended so as to indicate that the Council, and not its separate members, is called upon to be present continuously at the headquarters of the Organization. Under paragraph 5, it ought perhaps to be added that States not parties to the dispute should be invited to participate in the discussion when the efficient discharge of the Council's responsibilities so requires (cpr. Chapter VIII, B, 9).

6. In Chapter VIII, B, the terminology seems obscure in places. Thus the term "measures" is used both to indicate decisions bearing on the subject-matter and determining the steps required to be taken by the parties to a dispute or a situation in order to remove the threat to the peace, and also to signify actions destined to give effect to such decisions, that is to say actions (sanctions) to be carried out by the Organization itself. The terms used should bear out this intrinsic distinction.

7. It would be desirable to supplement Chapter X with rules concerning the recruitment of the staff, its task, legal position and

international status. Staff regulations should be approved by the General Assembly.

8. In the opinion of the Norwegian Delegation, it is of the utmost importance that it be stated, either in an annex to the Charter or in a resolution passed by the Conference, that the Organization from its very inception enters into cooperation with a number of specialized organizations in the economic, social and cultural fields. It is further important that without delay, appropriate preparations be made to constitute or reorganize certain special organizations, which either are not yet fully constituted or are in a state of transition. The Conference should appoint, or call upon Governments to appoint, interim committees to be charged with the preparation of the constitution or reorganization of such specialized organizations, in cooperation with any existing agencies. Such committees should also plan the terms of relationship between the specialized organizations and agencies and the Organization.

The United Nations Conference on International Organization

Doc.2 (ENGLISH)
G/7 (g)
May 2, 1945

GENERAL

COMMENTS OF THE PANAMANIAN GOVERNMENT ON THE DUMBARTON OAKS PROPOSALS

/TRANSLATION/

The necessity for a prior agreement about the general bases of the international organization for the maintenance of peace and security has been doubly demonstrated by the experience subsequent to the war of 1914-1918 and during the progress of the present conflict with the totalitarian axis. There is already obvious to the peoples and governments of the United Nations the advantage of adopting, by means of preliminary consultation, a plan and a method of joint action in order to meet the problems which face the post-war world. No one ignores that the victory of the arms of democracy on the battle fields would be fatally wasted if the nations which have conducted, supported and cooperated in the fight against nazism were not able to achieve and to maintain their unity of action in world reconstruction.

The organization and preservation of future peace presupposes the knowledge of the causes of the present war and of the reciprocal influences between those causes and their effects. A study of international life during the twenty years following 1919 reveals that the political causes of war cannot be separated from its economic factors or motives. It may be stated as a general thesis that the failure in liquidating the economic, social and political consequences of the former armed conflict was the first cause of the conflict which today envelops humanity. In this sense it is necessary to recognize that the economic-social unbalance which existed in numerous countries during two decades engendered and stimulated within those countries the forces which provoked the new conflict. The unsettling of the world market, brought about by barriers to the interchange of products and services, such as tariff barriers, quote systems, monetary rivalries and all of a series of similar limitations and obstacles to the free play of world economic forces, undoubtedly was a powerful element of irritation of internal and external political differences, which, in turn, produced insecurity in international life. Consequently, there will be nullified the effort to create an international order protected from controversies susceptible of developing

into new conflagrations if there are not established adequate conditions in order that all nations, large and small, may be able to develop their economic resources in a manner to assure the greatest well being for all of their inhabitants. There will not be peace or security in the world, as is recognized in the program of the four freedoms of President Roosevelt, and in the Atlantic Charter, as long as men do not enjoy, in the greatest measure possible and in ever more complete form, the comfort and security which can be given them by the present and future development of the techniques of production. The problem of the organization and maintenance of peace, therefore, is identified with the problem of the establishment of a world economic system based on the understanding that the world is a unit of interdependent parts whose equilibrium and progress depend upon an equitable participation by all countries in the productive resources of all of the earth. Economic stability and political security are, consequently, different aspects of the same problem. The recognition of this reality without doubt is found in the basis of negotiations which have found concrete expression in the conference at Hot Springs concerning food supply, in the monetary conference at Bretton Woods, and, above all, in the establishment of the administration of the United Nations for Relief and Rehabilitation (UNRRA). The work of the XXVI International Labor Conference, held in Philadelphia, United States, is along the same line. But there remains to be considered and to be solved the problem of coordinating efforts and activities which up to the present time have been carried on outside of an organic relation.

With respect to the fundamental line and the functioning of the international organization for the maintenance of peace, the problem which causes greatest preoccupation to small countries is that of reconciling the principle of the juridical equality of states with the attribution of greater responsibility to the large powers in the prevention and sanction of violations of international order, as well as the limitations on national sovereignty essential for an effective exercise of the instruments of collective action. This question was presented with great emphasis in the conferences at Dumbarton Oaks, according to the indications of the initial speeches of the representatives

of the United States, Great Britain, and the Soviet Union, and according to the contents of the preliminary decisions there adopted.

All objective study of these problems leads to the conclusion that in the present reality of the world there are within the group of the United Nations various powers of the first order upon which fall the principal part of the responsibility of preventing a repetition of the conditions of a revival of the aggressor powers, which would imply the return of the state of international insecurity which reigned from 1919 to 1939 and the consequent destruction of peace. There follows inevitably the necessity of constituting a collective power capable of preventing violations and of punishing the breaking of the juridical principles and instruments which must be the standard of and which must govern international life in the immediate future. The organization of this power, as has been emphasized by the leaders of the United Nations, should be designed in such a manner that small countries may never feel themselves diminished in their juridical personality nor be relegated to a secondary role in the world organization. The agreement of the great powers concerning the objects, the procedure and the extent of international organization is exactly one of the conditions necessary in order that such a situation may not arise. If within the world organization there should reappear in one form or another the old policy of balance of power, not only would the position of the small nations be most uncomfortable, but they would be exposed to inclining toward one or another power or group of powers with all the regrettable consequences which that would imply for the stability and security of international life.

The Government of the Republic of Panama therefore believes, in the light of the foregoing explanation that international organization for the maintenance of peace and security in the post-war period should take into account the following fundamental points:

I.- The recognition and the assurance of the juridical equality of states. All members of the organization which today form a part of the group of United Nations should have the same rights and capacities.

II.- However, international reality imposes the necessity of conferring upon the principal world powers the greater part of responsibilities in the maintenance of peace and security. Responsibilities which should be assumed jointly, which require that they also proceed in complete indentity of judgment with respect to the objects and the means of international action in the face of powers capable of carrying out new aggressions.

III. The limitations on sovereignty of the states which carry out the establishment of a collective international power capable of acting rapidly to prevent violations of the principles which govern international life should be established with the greatest possible clarity and exactness.

IV.- The attribution of a greater responsibility to a certain group of powers which is referred to in point II should not at any time lead to the constitution upon that level of coalitions or groups of nations opposed to each other, since the maintenance of peace and security is a joint task in which all nations, great and small, are equally interested and in which all should participate jointly.

Panama, November 16, 1944.

TR:GHB:rab

The United Nations Conference
on International Organization

RESTRICTED
Doc. 2 (ENGLISH)
G/7 (g) ~~(a)~~(1)
May 3, 1945

GENERAL

ADDITIONAL COMMENTS OF THE PANAMANIAN DELEGATION CONCERNING THE DUMBARTON OAKS PROPOSALS

As dependencies of the Economic and Social Council provided for in the Dumbarton Oaks Proposals and as permanent organs, the Delegation of Panama proposes:

1.- The establishment of an INTERNATIONAL MARITIME TRANSPORTATION OFFICE, the purposes of which will be the following:

(a) To aid the reestablishment of maritime services, to watch over the interests of exporters and importers, the changes brought about by the war in the merchant marines, routes, port facilities, et cetera;

(b) To examine transportation rates and conditions established by shipping companies and by their "Conferences" (commercial cartels with monopolistic aims), in order to avoid the unfair exploitation of certain areas, countries or groups of producers and consumers through the establishment of discriminatory rates.

2.- The establishment of an INTERNATIONAL MIGRATION OFFICE having the following purposes:

(a) To study the needs of migration and the possibilities of colonizing various parts of the world, from the economic, social, cultural, political, ethnical standpoints;

(b) To aid the governments and other agencies of the various countries to organize colonization enterprises on scientific bases, facilitate the financing of previously studied colonization projects, and to cooperate toward the promotion and coordination of other activities devoted to the economic, social and cultural development of relatively backward regions, through scientifically planned immigration and colonization undertakings.

3.- The establishment of an INTERNATIONAL EDUCATIONAL OFFICE devoted to stimulating and coordinating such studies as may promote better understanding and rapprochement among nations and cultural, technical and religious groups on all teaching levels, through the following media:

(a) Aid in the preparation of programs and plans of studies, in the writing of textbooks, in the interchange of students and teachers, in the exchange of publications and promotion of libraries, in scientific, sanitary and economic investigations of international import and the publication of its studies and work.

(b) Aid in the development of institutions of the nature of the Inter-American University of Panama devoted to post-graduate work on studies of international problems.

(c) The nationalization by the school of foreign groups or colonies so that they may not become minorities with foreign ideals and languages.

The United Nations Conference on International Organization

Doc. 2 (ENGLISH)
G/7 (g)(2)
May 5, 1945

GENERAL

ADDITIONAL AMENDMENTS PROPOSED BY THE DELEGATION OF THE REPUBLIC OF PANAMA CONCERNING THE PROPOSALS FOR THE MAINTENANCE OF PEACE AND SECURITY AGREED UPON AT THE CONFERENCE OF DUMBARTON OAKS

(Amendments and Additions to Chapters I and II)

Without making at this time any comments regarding the reasons on which the amendments hereafter stated are based, and reserving the right to give such reasons in full when the actual drafting of the Charter of the Community of Nations is undertaken by the Delegations in the different Commissions and Technical Committees, the Delegation of the Republic of Panama submits to the consideration of the Conference the proposals hereinafter stated:

A) That Paragraph 1, Chapter I, be amended to read as follows:

CHAPTER I.-PURPOSES

The purposes of the Organization are:

1.- To maintain international peace and security in conformity with the fundamental principles of international law and to maintain and observe the standards set forth in the "Declaration of the Rights and Duties of Nations" and the "Declaration of Essential Human Rights" which are appended to the present Charter, and which are made an integral part thereof:

B) That a new paragraph number 2 be inserted to read as follows:

2.- In furtherance of the end above stated, to take effective collective measures for the prevention and removal of threats to the peace and the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means adjustment or settlement of international disputes which may lead to a breach of the peace;

C) That the preceding Paragraph be followed by paragraphs 2, 3 and 4 of the Dumbarton Oaks Proposals, to be renumbered respectively 3, 4, and 5.

D) That the "Declaration of the Rights and Duties of Nations" referred to in Paragraph 1, as above proposed, be the Declaration adopted by the American Institute of International Law in Washington, January 6, 1916. (Text attached hereto).

E) That the "Declaration of Essential Human Rights" referred to in Paragraph 1, as above proposed, be the following:

DECLARATION OF ESSENTIAL HUMAN RIGHTS

Preamble

Upon the freedom of the individual depends the welfare of the people, the safety of the state and the peace of the world.

In society complete freedom cannot be attained; the liberties of the one are limited by the liberties of others, and the preservation of freedom requires the fulfillment by individuals of their duties as members of society.

The function of the state is to promote conditions under which the individual can be most free.

To express those freedoms to which every human being is entitled and to assure that all shall live under a government of the people, by the people, for the people, this declaration is made.

Article 1.- FREEDOM OF RELIGION

Freedom of belief and of worship is the right of every one.

The state has a duty to protect this freedom.

Article 2.- FREEDOM OF OPINION

Freedom to form and hold opinions and to receive opinions and information is the right of every one.

The state has a duty to protect this freedom.

Article 3.- FREEDOM OF SPEECH

Freedom of expression is the right of every one.

The state has a duty to refrain from arbitrary limitation of this freedom and to prevent denial of reasonable access to channels of communication.

Article 4.- FREEDOM OF ASSEMBLY

Freedom to assemble peaceably with others is the right of every one.

The state has a duty to protect this freedom.

Article 5.- FREEDOM TO FORM ASSOCIATIONS

Freedom to form with others associations of a political, economic, religious, social, cultural, or any other character for purposes not inconsistent with these articles is the right of every one.

The state has a duty to protect this freedom.

Article 6.- FREEDOM FROM WRONGFUL INTERFERENCE

Freedom from unreasonable interference with his person, home, reputation, privacy, activities, and property is the right of every one.

The state has a duty to protect this freedom.

Article 7.- FAIR TRIAL

Every one has the right to have his criminal and civil liabilities and his rights determined without undue delay by fair public trial by a competent tribunal before which he has had opportunity for a full hearing.

The state has a duty to maintain adequate tribunals and procedures to make this right effective.

Article 8.- FREEDOM FROM ARBITRARY DETENTION

Every one who is detained has the right to immediate judicial determination of the legality of his detention.

The state has a duty to provide adequate procedures to make this right effective.

Article 9.- RETROACTIVE LAWS

No one shall be convicted of crime except for violation of a law in effect at the time of the commission of the act charged as an offense, nor be subjected to a penalty greater than that applicable at the time of the commission of the offense.

Article 10.- PROPERTY RIGHTS

Every one has the right to own property under general law. The state shall not deprive any one of his property except for a public purpose and with just compensation.

Article 11.- EDUCATION

Every one has the right to education.

The state has a duty to require that every child within its jurisdiction receive education of the primary standard; to maintain or insure that there are maintained facilities for such education which are adequate and free; and to promote the development of facilities for further education which are adequate and effectively available to all its residents.

Article 12.- WORK

Every one has the right to work.

The state has a duty to take such measures as may be necessary to insure that all its residents have an opportunity for useful work.

Article 13.- CONDITIONS OF WORK

Every one has the right to reasonable conditions of work.

The state has a duty to take such measures as may be necessary to insure reasonable wages, hours, and other conditions of work.

Article 14.- FOOD AND HOUSING

Every one has the right to adequate food and housing.

The state has a duty to take such measures as may be necessary to insure that all its residents have an opportunity to obtain these essentials.

Article 15.- SOCIAL SECURITY

Every one has the right to social security.

The state has a duty to maintain or insure that there are maintained comprehensive arrangements for the promotion of health, for the prevention of sickness and accident, and for the provision of medical care and of compensation for loss of livelihood.

Article 16.- PARTICIPATION IN GOVERNMENT

Every one has the right to take part in the government of his state.

The state has a duty to conform to the will of the people as manifested by democratic elections.

Article 17.- EQUAL PROTECTION

Every one has the right to protection against arbitrary discrimination in the provisions and application of the law because of race, religion, sex, or any other reason.

Article 18.- LIMITATIONS ON EXERCISE OF RIGHTS

In the exercise of his rights every one is limited by the rights of others and by the just requirements of the democratic state.

F) That Chapter II on PRINCIPLES be amended to read as follows:

CHAPTER II.- PRINCIPLES

In pursuit of the purposes mentioned in Chapter I the (here the official name to be agreed upon and given to the Organization) and its members should act in accordance with the following principles:

1.- Each State has a legal duty to carry out in full good faith its obligations under international law, and it may not invoke limitations contained in its own constitution or laws as an excuse for a failure to perform this duty.

2.- Each State has a legal duty to see that conditions prevailing within its own territory do not menace international peace and order, and to this end it must treat its own population in a way which will not violate the dictates of humanity and justice or shock the conscience of mankind.

3.- Each State has a legal duty to refrain from intervention in the internal affairs of any other State.

4.- Each State has a legal duty to prevent the organization within its territory of activities calculated to foment civil strife in the territory of any other State.

5.- Each State has a legal duty to cooperate with other States in establishing and maintaining agencies of the (here the name of the Organization) for dealing with matters of concern to it and to collaborate in the work of such agencies.

6.- Each State has a legal duty to employ pacific means and none but pacific means in seeking to settle its disputes with other States, and failing settlement by other pacific means to accept the settlement of its disputes by the competent agency of the (here the name of the Organization).

7.- Each State has a legal duty to refrain from any use of force and from any threat to use force in its relations with another State, except as authorized by this Charter; but subject to immediate reference to and approval by the competent agency of the (here the name of the Organization), a State may oppose by force an unauthorized use of force made against it by another State.

8.- Each State has a legal duty to take, in cooperation with other States, such measures as may be prescribed by the competent agency of the (here the name of the Organization) for preventing or suppressing a use of force by any State in its relations with another State.

9.- Each State has a legal duty to conform to the limitations prescribed by the competent agency of the (here the name of the Organization) and to submit to the supervision and control of such an agency, with respect to the size and type of its armaments.

10.- Each State has a legal duty to refrain from entering into any agreement with another State, the performance of which would be inconsistent with the discharge of its duties under general international law.

The (here the name of the Organization) should ensure that states not members act in accordance with these principles so far as may be necessary for the maintenance of international peace and security.

G) That the present Chapter II of the Dumbarton Oaks Proposals be renumbered Chapter III and amended to read as follows:

CHAPTER III.- OBLIGATIONS OF MEMBERS

In furtherance of the purposes mentioned in Chapter I, and in order to ensure to all members of the (here the name of the Organization) the rights and benefits resulting from their membership, all members assume the following obligations:

1.- To act in accordance with the general principles, rules and provisions of this Charter;

2.- To give every assistance to the (here the name of the Organization) in any action undertaken by it in accordance with the provision of this Charter;

3.- To refrain from giving assistance to any state against which preventive or enforcement action is being undertaken by the (here the name of the Organization).

H) That as a result of the addition of one Chapter as above proposed, Chapters III to XII of the Dumbarton Oaks Proposals be renumbered IV to XIII in their order.

I) That in Chapter IX, Section A, Paragraph 1, the final words of the first sentence, "promote respect for human rights and fundamental freedoms", be amended to read: "safeguard and protect human rights and freedoms", in accordance with the Declaration of Essential Human Rights referred to in Paragraph 1, Chapter I of this Charter.

DECLARATION OF THE RIGHTS AND DUTIES OF NATIONS ADOPTED BY THE AMERICAN INSTITUTE OF INTERNATIONAL LAW AT ITS FIRST SESSION IN THE CITY OF WASHINGTON, JANUARY 6, 1916

WHEREAS the municipal law of civilized nations recognizes and protects the right to life, the right to liberty, the right to the pursuit of happiness, as added by the Declaration of Independence of the United States of America, the right to legal equality, the right to property, and the right to the enjoyment of the aforesaid rights; and

WHEREAS these fundamental rights, thus universally recognized, create a duty on the part of the peoples of all nations to observe them; and

WHEREAS, according to the political philosophy of the Declaration of Independence of the United States, and the universal practice of the American Republics, nations or governments are regarded as created by the people, deriving their just powers from the consent of the governed, and are instituted among men to promote their safety and happiness and to secure to the people the enjoyment of their fundamental rights; and

WHEREAS the nation is a moral or juristic person, the creature of law, and subordinated to law as is the natural person in political society; and

WHEREAS we deem that these fundamental rights can be stated in terms of international law and applied to the relations of the members of the society of nations, one with another, just as they have been applied in the relations of the citizens or subjects of the states forming the Society of Nations; and

WHEREAS these fundamental rights of national jurisprudence, namely, the right to life, the right to liberty, the right to the pursuit of happiness, the right to equality before the law, the right to property, and the right to the observance thereof are, when stated in terms of international law, the right of the nation to exist and to protect and to conserve its existence; the right of independence and the freedom to develop itself without interference or control from other nations; the right of equality in law and before law; the right to territory within defined boundaries and to exclusive jurisdiction therein; and the right to the observance of these fundamental rights; and

WHEREAS the rights and the duties of nations are, by virtue of membership in the society thereof, to be exercised and performed in accordance with the exigencies of their mutual interdependence expressed in the preamble to the Convention for the Pacific Settlement of International Disputes of the First and Second Hague Peace Conferences, recognizing the solidarity which unites the members of the society of civilized nations;

THEREFORE, The American Institute of International Law, at its first session, held in the City of Washington, in the United States of America, on the sixth day of January, 1916, adopts the following six articles, together with the commentary thereon, to be known as its DECLARATION OF THE RIGHTS AND DUTIES OF NATIONS:

I. Every nation has the right to exist, and to protect and to conserve its existence; but this right neither implies the right nor justifies the act of the state to protect itself or to conserve its existence by the commission of unlawful acts against innocent and unoffending states.

II. Every nation has the right to independence in the sense that, it has a right to the pursuit of happiness and is free to develop itself without interference or control from other states, provided that in so doing it does not interfere with or violate the rights of other states.

III. Every nation is in law and before law the equal of every other nation belonging to the society of nations, and all nations have the right to claim and, according to the Declaration of Independence of the United States, "to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them."

IV. Every nation has the right to territory within defined boundaries and to exercise exclusive jurisdiction over its territory, and all persons whether native or foreign found therein.

V. Every nation entitled to a right by the law of nations is entitled to have that right respected and protected by all other nations, for right and duty are correlative, and the right of one is the duty of all to observe.

VI. International law is at one and the same time both national and international: national in the sense that it is the law of the land and applicable as such to the decision of all questions involving its principles; international in the sense that it is the law of the society of nations and applicable as such to all questions between and among the members of the society of nations involving its principles.

GENERAL

Translation

INTER-AMERICAN CONFERENCE ON PROBLEMS
OF WAR AND PEACE
Mexico, D.F., Mexico

DELEGATION OF PARAGUAY

February 27, 1945

SUMMARY OF REMARKS PRESENTED BY THE GOVERNMENT OF PARAGUAY ON THE DUMBARTON OAKS PROPOSALS

I.

The Government of Paraguay has received with great enthusiasm the idea of forming an Association of all the Nations, for the purpose of establishing collective peace and security and the well-being and happiness of all peoples, under the standards of International Law and of Justice, as expressed in the Dumbarton Oaks Proposals.

It wishes however to submit some general remarks on these Proposals:

1. The General Assembly, the representative body of all the Associated Nations, in which should be concentrated all powers, is a body with very limited authority; it is prevented from taking any effective resolution without the agreement or consent of the Security Council, in which only the representatives of five Powers have permanent seats, and the other six are elected by the Assembly.

Its powers are limited to "considering", "discussing", "recommending".

It cannot act in matters relating to the "maintenance of peace and security", in which the Security Council might intervene; and in as much as the Council is a permanent body and the Assembly is not, it is obvious that the Council will depend on whether the Assembly is able to consider the subjects of greatest collective interest. In the event that any question escapes the control of the Council, it is provided that the Assembly may not take "action" without deferring it to the Security Council "before discussing it or after discussing it".

The Assembly, in which representatives of all peace-loving nations of the world may have seats, is not competent even to admit to its membership another nation without the recommendation of the Council. This unbalance of powers could be corrected in such a way as to satisfy the feelings and the authority of the nations represented in the Assembly with the preferential status accorded to the Council, as follows:

(a) The General Assembly must be the highest authority of the Association and, therefore, its ~~confidence~~ Compet must not be limited by reason of the nature of the questions.

(b) The Security Council must not be a mere executive organ of the Assembly. While the Assembly is not in session, the Council should have equal competence to originate, in questions relative to the collective peace and security.

(c) The part assigned to the Great Powers in questions relative to collective security and world peace must be reconciled with the dignity of the General Assembly, with a suitable control of the percentages of votes necessary to enable the Assembly to review any possible unfair intervention by the Council.

2. The American countries should have more than one permanent representative in the Security Council.

3. The proposals do not provide for a system of voting in the Security Council, and this is fundamental.

4. Paraguay endorses the idea of organizing an INTERNATIONAL COURT OF JUSTICE, to hear in obligatory and final instance, all questions which may not have been settled by other pacific means of solution. We say obligatory instance because its competence must not allow any exceptions, when all other means have failed.

5. Mention must be made of the fact that the Economic and Social Council lacks sufficient powers for carrying out its decisions for all it can do is to "recommend", "receive and consider reports", "advise", et cetera, et cetera.

- - - - -

In conclusion, an International Association must be founded on the following essential principles:

(a) Juridical equality of the States; equal opportunities.
(b) Safeguarding the independence and territorial integrity of the States.
(c) Nonintervention.
(d) Inviolability of International Treaties.
(e) Respect for the standards of International Law; pacific solution of international conflicts; compulsory execution of arbitral decisions and sentences.
(f) Respect for the dignity of the human being and for his essential rights.

II.

THE INTER-AMERICAN SYSTEM. DEVELOPMENT AND COORDINATION WITH THE WORLD ORGANIZATION.

The World Organization does not exclude regional organization. Its coordination must be brought about. In this respect, it must be emphasized that the Pan American system is so real and concrete that no American State could renounce its benefits, which have been achieved in over fifty years of joint efforts.

As regards collective peace and security, the American system is so organized so as to obtain the specific settlement of international questions (Gondra Treaty to avoid or prevent conflicts between the American States. 1923; the General Convention of Inter-American Conciliation, signed in Washington on January 5, 1929, et cetera, et cetera), and the upholding of the standards of International Law.

Much juridical material has been produced in America for the maintenance of collective peace and security, such as the Mexico Peace Code; the Resolutions on the procedure of Consultation of the Conferences of Foreign Ministers, et cetera, et cetera.

So much for the maintenance of the Inter-American System and the possibility of coordinating it with the world organization.

For the development of the system in question the following is desirable:

(a) The strengthening and extension of the functions of the Union of the American Republics.

(b) The Codification of American International Law.

(c) The setting up of the Court of Inter-American Justice as an instance or an entity of the World Court of International Justice.

(d) The improvement of economic, financial, and cultural cooperation.

(e) The coordination of the activities of the permanent Inter-American Organizations by means of the Pan American Union. (Draft Resolution submitted by Paraguay to the Inter-American Conference on Problems of War and Peace.)

United States Delegation,
Interpreting and Translating Unit,
February 28, 1945.

The United Nations Conference
on International Organization

Doc. 2 (ENGLISH)
G/14(u)
May 6, 1945

GENERAL

MOTIONS OF THE PERUVIAN DELEGATION ON THE DUMBARTON OAKS PROPOSALS

THE DELEGATION OF PERU PROPOSES:

(COMMISSION I)

To add the following phrase at the close of paragraph 1 of Chapter II of the Dumbarton Oaks Proposals:

> "Under international order, which is constituted essentially by respect for the personality of the States, with its attributes of sovereignty, independence and territorial integrity, and by the faithful observance of international treaties".

The paragraph mentioned would therefore read as follows:

> "1. The Organization is based on the principle of the sovereign equality of all peace-loving states, under international order, which is constituted essentially by respect for the personality of the States, with its attributes of sovereignty, independence and territorial integrity, and by the faithful observance of international treaties."

(COMMISSION II)

To insert in paragraph 6 of Section B of Chapter V of the Dumbarton Oaks Proposals, which is quoted below, the words which appear therein, underlined:

> "6. The General Assembly should initiate studies and make recommendations for the purpose of promoting international cooperation in political, economic and social fields, preventing economic aggression, and of adjusting situations likely to impair the general welfare."

(COMMISSION III)

1. To substitute in paragraph 6 of Section A of Chapter VIII of the Dumbarton Oaks Proposals the word "obligatorily" for the word "normally".

2. To insert in the same paragraph, after the sentence "Justiciable disputes should normally (obligatorily) be referred to the international court of justice", the following: "In case one of the parties or the Security Council should claim that the matter is not justiciable, the Court itself shall pass on the point of its competence".

3. To add the following in paragraph 7 of Section A of the same Chapter: "The international court of justice shall decide; at the petition of either of the parties or on the initiative of the Security Council, whether the matter in dispute belongs to the international jurisdiction or to the domestic jurisdiction".

San Francisco, May 4, 1945.

Manuel C. Gallagher

JOINT DRAFT AMENDMENT TO CHAPTER VIII, SECTION C, OF THE DUMBARTON OAKS PROPOSALS SUBMITTED BY THE DELEGATIONS OF CHILE, COLOMBIA, COSTA RICA, ECUADOR, AND PERU IS CONTAINED IN A SEPARATE DOCUMENT AT THE END OF THIS VOLUME.

The United Nations Conference
on International Organization

Doc. 2 (ENGLISH)
G/14(k)
May 5, 1945

GENERAL

PROPOSED AMENDMENTS TO THE DUMBARTON OAKS PROPOSALS SUBMITTED BY THE PHILIPPINE DELEGATION

(NOTE -- For purposes of clarity and convenience, all insertions in and additions to the text are underlined while words and lines proposed for deletion are crossed out. All page and line numbers refer to those of the printed Text of the Dumbarton Oaks Proposals, Document 1, G/1.)

PAGE 1. Chapter I. Purposes

10 2. To develop friendly relations and the spirit of
brotherhood and racial equality among ~~nations and to~~
11 ~~take other appropriate measures~~ to strengthen universal
12 peace;

II

PAGE 1. Chapter I. Purposes

13 3. To achieve international cooperation in the solution
14 of international economic, cultural, social and other humanitarian
15 problems; and

III

PAGE 2. Chapter II. Principles

2 In pursuit of the purposes mentioned in Chapter I the
3 Organization and its members should act in accordance with
the principles declared in the Atlantic Charter and with
4 the following principles:

IV

PAGE 2. Chapter II. Principles

5 1. The Organization is based on the principle of the
6 sovereign equality of all peace-loving and law-abiding ~~states~~
nations.

PAGE 3. Chapter III. Membership

5 ~~1. Membership of the Organization should be open to all~~
6 ~~peace-loving states.~~
5 The members of the Organization should be:
6 1. The original signatories to this Charter;
2. Any other peace-loving and law-abiding nation which
may hereafter be admitted in accordance with the provisions of
this Charter.

VI

PAGE 3. Chapter V. The General Assembly

16 SECTION A. COMPOSITION. All members of the Or-
17 ganization should be members of the General Assembly and each
18 should have ~~a number of representatives to be specified in~~ one
representative therein.
19 ~~the Charter.~~

VII

PAGE 4. Chapter V. The General Assembly, SECTION B. FUNCTIONS AND POWERS. 1.

8 Assembly either before or after discussion. ~~The General~~
9 ~~Assembly should not on its own initiative make recom-~~
10 ~~mendations on any matter relating to the maintenance of~~
11 ~~international peace and security which is being dealt with~~
12 ~~by the Security Council.~~

VIII

PAGE 6. Chapter V. The General Assembly, SECTION B. FUNCTIONS AND POWERS.

3 8. The General Assembly should receive and consider
4 annual and special reports from the Security Council and
5 reports from other bodies of the Organization.
9. The General Assembly should be vested with the
legislative authority to enact rules of international law

which should become effective and binding upon the members of the Organization after such rules have been approved by a majority vote of the Security Council. Should the Security Council fail to act on any of such rules within a period of thirty (30) days after submission thereof to the Security Council, the same should become effective and binding as if approved by the Security Council. In the exercise of this legislative authority the General Assembly may codify the existing rules of international law with such changes as the Assembly may deem proper.

IX

PAGE 7. Chapter VI. The Security Council, SECTION A. COMPOSITIO

SECTION A. COMPOSITION. The Security Council should consist of one representative of each of eleven members of the Organization. Representatives of the United States of America, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the Republic of China, and, in due course, France, should have permanent seats. The General Assembly should ~~elect-six-states-to-fill-the-non-permanent-seats.--These-six~~ elect the six representatives to fill the non-permanent seats on the basis of geographical regions, each region to be entitled to one representative. These geographical regions should be: (1) North and Central America, (2) South America, (3) Europe, (4) Africa, (5) Western Asia, and (6) Western Pacific Community. The General Assembly should determine the nations that should be included in each geographical region. These six ~~states~~ representatives should be elected for a term of two years, three retiring each year. They should not be immediately eligible for reelection. In the first election of the non-permanent members three should be chosen by the General Assembly for one-year terms and three for two-year terms.

X

PAGE 9. Chapter VI. The Security Council, SECTION C. VOTING:

~~3.--Decisions-of-the-Security-Council-on-all-other-matters should-be-made-by-an-affirmative-vote-of-seven-members including-the-concurring-votes-of-the-permanent-members;~~

3. Decisions of the Security Council on all other matters should be made by an affirmative vote of a majority of the permanent members and a majority of the non-permanent members, voting separately;

provided that, in decisions under Chapter VIII, Section A, and under the second sentence of Paragraph 1 of Chapter VIII, Section C, a party to a dispute should abstain from voting.

XI

PAGE 9. Chapter VI. The Security Council, SECTION C. VOTING. 3.

voting. In all decisions involving the use of armed forces to maintain peace, an affirmative vote of four-fifths (4/5) of the permanent members and three-fourths (3/4) of the non-permanent members of the Security Council should be required.

XII

PAGE 10. Chapter VII. An International Court of Justice

2. The court should be constituted and should function in accordance with a statute which should be annexed to and be a part of the Charter of the Organization. ; provided, however, that the court should have compulsory jurisdiction.

XIII

PAGE 14. Chapter VIII. Arrangements for the Maintenance of International Peace and Security Including Prevention and Suppression of Aggression, SECTION B. DETERMINATION OF THREATS TO THE PEACE OR ACTS OF AGGRESSION AND ACTION WITH RESPECT THERETO. 2.

decide upon the measures to be taken to maintain or restore peace and security. Any nation should be considered as threatening the peace or as an aggressor, if it should be the first party to commit any of the following acts: (1) To declare war against another nation; (2) To invade or attack, with or without declaration of war, the territory, public vessel, or public aircraft of another nation; (3) To subject another nation to a naval, land or air blockade; and (4) To interfere with the internal affairs of another nation by supplying arms, ammunition, money or other forms of aid to any armed band, faction or group, or by establishing agencies in that nation to conduct propaganda subversive of the institutions of that nation.

XIV

PAGE 16. Chapter VIII. Arrangements for the Maintenance of International Peace and Security Including Prevention

and Suppression of Aggression. SECTION B. DETERMINATION OF THREATS TO THE PEACE OR ACTS OF AGGRESSION AND ACTION WITH RESPECT THERETO. 9.

forces placed at the disposal of the Security Council. The Committee should be composed of the Chiefs of Staff of all the ~~permanent~~ members of the Security Council or their repre-

XV

PAGE 16. Chapter VIII. Arrangements for the Maintenance of International Peace and Security Including Prevention and Suppression of Aggression. SECTION B. DETERMINATION OF THREATS TO THE PEACE OR ACTS OF AGGRESSION AND ACTION WITH RESPECT THERETO. 9.

sentatives. Any member of the Organization not ~~permanently~~ represented on the Committee should be invited by

XVI

PAGE 18. Chapter IX. Arrangements for International Economic and Social Cooperation, SECTION A. PURPOSE AND RELATIONSHIPS.

SECTION A. PURPOSE AND RELATIONSHIPS. 1. With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations, the Organization should facilitate solutions of international economic, cultural, social and other humanitarian problems

XVII

PAGE 18. Chapter IX. Arrangements for International Economic and Social Cooperation, SECTION A. PURPOSE AND RELATIONSHIPS. 2.

2. The various specialized economic, cultural, social and other organizations and agencies would have responsibilities in their respective fields as defined in their statutes. Each such or-

XVIII

PAGE 19. Chapter IX. Arrangements for International Economic and Social Cooperation, SECTION B. COMPOSITION AND VOTING.

SECTION B. COMPOSITION AND VOTING. The Economic and Social Council should consist of representatives of ~~eighteen~~ all members of the Organization. ~~The states to be represented for this purpose should be elected by the General Assembly for terms of three years. Each such state should have one representative, who should have one vote.~~ Decisions of the Economic and Social Council should be taken by simple majority vote of those present and voting.

XIX

PAGE 19. Chapter IX. Arrangements for International Economic and Social Cooperation, SECTION C. FUNCTIONS AND POWERS OF THE ECONOMIC AND SOCIAL COUNCIL. 1.

b. to make recommendations, on its own initiative, with respect to international economic, cultural, social and other humanitarian matters;

XX

PAGE 20. Chapter IX. Arrangements for International Economic and Social Cooperation, SECTION D. ORGANIZATION AND PROCEDURE.

SECTION D. ORGANIZATION AND PROCEDURE. 1. The Economic and Social Council should set up an economic commission, a social commission, an education and cultural commission, and such other commissions as may be required. These commissions should consist of experts. There should be a permanent staff which should constitute a part of the Secretariat of the Organization.

XXI

PAGE 21. Chapter X. The Secretariat

3. The Secretary-General should have the right to bring to the attention of the Security Council any matter which in his opinion may threaten international peace and security.

4. Every member of the Organization should submit to the Secretariat, for registration and publication, a copy of every treaty, convention, or agreement concluded between it and any other state or states within thirty (30) days after ratification by the governments concerned. No treaty, convention, or agreement should be binding unless this requirement is fulfilled. No member of the Organization should conclude any treaty, convention or agreement which violates the spirit and principles of this Charter.

ANNEX TO THE
PROPOSED AMENDMENTS

ALTERNATIVE PROPOSALS

I. On the Voting Procedure in the Security Council (Chapter VI, Section C.)

II. On the Composition of the Economic and Social Council (Chapter IX, Section B.)

It is proposed that if the amendments on the two subjects listed above, as embodied in this document, are not found acceptable, the following alternative proposals be considered:

I

PAGE 9. Chapter VI. The Security Council, SECTION C. VOTING. voting.

4. Should the Security Council, by reason of the non-concurrence of one permanent member, fail to arrive at a decision under Paragraph 3 of this section, the matter in question should be submitted to the General Assembly for final decision. Decisions of the General Assembly on matters submitted to it by the Security Council under this paragraph should be made by an affirmative vote of three-fourths (3/4) of all the members.

II

PAGE 19. Chapter IX. Arrangements for International Economic and Social Cooperation, SECTION B. COMPOSITION AND VOTING.

SECTION B. COMPOSITION AND VOTING. The Economic and Social Council should consist of representatives of eighteen members of the Organization. The ~~states~~ nations to be represented for this purpose should be elected by the General Assembly for terms of three years, provided that, no member of this Council shall serve two successive terms. Each such ~~state~~ nation should have one representative, who should have one vote. Decisions of the Economic and Social Council should be taken by simple majority vote of those present and voting. In the election of the members of the Council, the following procedure should be followed: (1) Six members should be elected from those nations that have attained the greatest industrial development; (2) Six members should be elected from those nations

that have made the largest agricultural development; and (3) Six members should be elected to represent the six geographical regions as classified in Section A, Chapter VI, each region to be entitled to one member.

The United Nations Conference on International Organization

RESTRICTED
Doc. 2 (ENGLISH)
G/14(e)
May 1, 1945

GENERAL

SUGGESTIONS OF THE TURKISH GOVERNMENT CONCERNING THE PROPOSALS FOR THE MAINTENANCE OF PEACE AND SECURITY AGREED ON AT THE FOUR-POWER CONFERENCE AT DUMBARTON OAKS

Turkey has always been one of the most ardent supporters of the idea of collective security. It is, therefore, natural that the Government of the Turkish Republic has examined with due attention and particular sympathy the plan drawn up at Dumbarton Oaks by the representatives of the United Kingdom, the United States, the Union of Soviet Socialist Republics and the Republic of China for the International Organization of peace, security, and the world economy.

The Turkish Government congratulates itself all the more warmly for the understanding thus achieved among the four great nations, since, being firmly attached to the high ideal which has led to the creation of the League of Nations, it sees herein the consecration of the aim toward which were bent all the efforts of good-will to assure the indispensable evolution of this institution into a more complete and more perfect form through the inclusion in the pact of the principle of effective and preventive action, the lack of which has caused the League to lapse into passivity.

It is also upon the inspiration of these factors of the past and of the painful experiences which humanity has suffered in the course of the recent years, that, with the purpose of making its modest contribution to the work of peace which requires the common effort of all peoples, the Turkish Government permits itself to submit to the Conference certain suggestions of a general character which, it hopes, will be taken into consideration at the time of the amending and redrafting of the final text.

I

In paragraph 1 of Chapter II it is specified that the Organization is based on the principle of sovereign equality of all peace-loving states.

In order to make it possible for the new association of nations to realize more easily the aims of its activity, to afford more adequate relief to the minds of peoples, and to confer upon the principle of sovereign equality its full value, it would be desirable, as in the case of the Covenant of the League of Nations, to specify expressly that the settlement of disputes shall be sought in conformity with justice and the general principles of law.

The principles of international law not being as yet of a nature to cover as fully and effectively as necessary the whole of international relations, the suggestion submitted above would be, it seems, the only proper remedy to avoid the decisions of the new Organization being considered as arbitrary.

II

As regards the attributes of the General Assembly, the Turkish Delegation observes that the powers conferred upon it are, in so far as decisions are concerned, limited to questions relating to social and economic activity, whereas in essential problems concerning the maintenance of peace and security, the General Assembly does not seem to have to play any active part.

The principle of the sovereign equality of all states should have as a consequence the concentration, in the last instance, in the hands of the General Assembly of all the powers of control relative to decisions bearing upon the maintenance of peace and security. This extension of the powers of the Assembly in the sphere of control does not, of course, in the eyes of the Turkish Delegation, signify either an encroachment upon the attributes of the Security Council or a limitation of the powers originally conferred upon that body.

Consequently, the Turkish Delegation believes that it would be useful for the Conference to subject Chapter V of the Dumbarton Oaks Proposals to further examination in the light of the considerations set forth above.

III

The center of gravity of the new Organization lies in the Security Council with the wide powers which are conferred upon it, including the use of force to prevent aggression. This last-mentioned characteristic of the Proposals fills an essential gap in the Covenant of the League of Nations and constitutes a happy epoch in the domain of peace. The Organization reveals itself as a material instrument placed at the service of the tranquillity of the world, as well as a moral element of the highest importance by the public and universal condemnation which it brings upon any attempt to threaten the peace and security of peoples.

It is quite natural that the powers which undertake great obligations and heavy responsibilities in the application of coercive measures should be permanently represented in the Security Council and that they should enjoy in that domain wider powers than the other states.

It is nonetheless true that the number of non-permanent seats on the Council is clearly insufficient. This disproportion is further stressed by the fact that in decisions relating to action the unanimity of the votes of the principal powers is indispensable. In order to respect the principle of the equality of states, which forms the basis of the Organization, and to provide a better equilibrium in the Security Council, a notable increase in the number of non-permanent seats appears to be necessary. The raising to ten of the number of non-permanent seats and the provision of a minimum of eleven votes to carry a decision appear, to the Turkish Delegation, to be useful amendments for the establishment of a more balanced representation in the Council.

IV

As regards the attributes of the Security Council, the Turkish Delegation deems it necessary to make the following observations:

In paragraph 5 of Section A of Chapter VIII it is stated that "the Security Council should be empowered, at any stage of a dispute of the nature referred to in paragraph 3 above, to recommend appropriate procedures or methods of adjustment." It is more in conformity with the principles of law that any matter brought before a judicial body should follow its normal course before that body. The matter should not, therefore, upon the intervention of the Security Council, be removed from the competence of the tribunal to be referred to other organs. Not only should the judicial procedure, having once been set in motion, follow its normal course ending in a judgment, but the Council should also protect the party to the dispute who would submit to that judgment.

According to the terms of paragraph 7 of Section A of Chapter VIII, the provisions of paragraphs 1 to 6 of Chapter VIII, Section A, shall not apply to situations and disputes relating to questions which international law leaves to the exclusive competence of the interested states. Positive international law not having as yet definitely determined the questinns that should remain within the sphere of exclusive sovereignty, it would be necessary to find a more explicit formula to determine whether or not a dispute falls within the domestic jurisdiction, particularly in those cases where the two parties do not agree on that subject. The court of justice should have jurisdiction to take cognizance of that subject and to pass judgment thereon.

V

The Turkish Government believes that in cases of emergency the immediate action which may be initiated through the application of regional arrangements should not be deferred pending the decision of the Security Council, since, in such cases, any delay due to procedure would be detrimental to the country being attacked.

Consequently, the Turkish Delegation earnestly desires the acceptance of regional arrangements providing for automatic action as constituent elements of collective security, on condition that they should be conceived for the exclusive purpose of defense and that the signatory states which might have to avail themselves thereof should be required to report, within the shortest possible time, to the Council on the emergency measures which they might have been compelled to take in carrying out these arrangements, as well as on the justification of the urgency of the action.

The Proposals do not contain any provision on the subject of legitimate defense. Although this right is of an obvious nature, it would be useful to insert in the Charter a provision justifying legitimate defense against a surprise attack by another state. Nevertheless, even in such a case the Council should have an entirely free hand to judge the circumstances under which legitimate defense has occurred, as well as the justification for the measures taken by the party which has been compelled to defend itself.

The Turkish Delegation presents these initial suggestions as a simple general view which it reserves the right to complete in the course of the work of the Conference either by additional proposals or by remarks on provisions contained in the Proposals or eventually to be inserted therein.

The United Nations Conference on International Organization

RESTRICTED
Doc. 2 (ENGLISH)
G/14 (e)(1)
May 5, 1945

GENERAL

DUMBARTON OAKS PROPOSALS: AMENDMENTS SUBMITTED BY THE TURKISH DELEGATION TO THE SAN FRANCISCO CONFERENCE

CHAPTER I

PURPOSES

The purposes of the Organization should be: 1. To maintain international peace and security IN CONFORMITY WITH RIGHT AND JUSTICE; and to that end to take effective collective measures for the prevention and removal of threats to the peace and the suppression of acts of aggression or other breaches of the peace and to provide for or bring about by peaceful means the settlement of international disputes which may lead to a breach of the peace.

Comment: The Turkish Delegation is of the opinion that Chapter I, which states the purposes of the new Organization, should specify the principles according to which international peace and security will be maintained.

CHAPTER V

THE GENERAL ASSEMBLY

Section B. Functions and Powers:

1. - to insert after,...... "before or after discussion"

THE SECURITY COUNCIL WILL REPORT TO THE GENERAL ASSEMBLY ON ANY MATTERS CONCERNING INTERNATIONAL PEACE AND SECURITY WITH REGARD TO WHICH IT HAS TAKEN AND APPLIED THE MEASURES WHICH HAVE BEEN DEEMED NECESSARY.

Comment: The General Assembly is the new Organization's representative body par excellence. By delegating its powers, the General Assembly endows the Security Council with far-reaching prerogatives and responsibilities. It is therefore only right that, in return, the Security Council should report to the General Assembly on any decision it may have taken and applied, in virtue of these powers, for the maintenance of international peace and security.

CHAPTER VIII

ARRANGEMENTS FOR THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY, INCLUDING PREVENTION AND SUPPRESSION OF AGGRESSION.

Section A. Pacific Settlement of Disputes:

Add after paragraph 5:

> NEVERTHELESS, RECOMMENDATIONS MADE BY THE SECURITY COUNCIL MUST NOT INTERFERE WITH LEGAL PROCEDURE IN THE CASE OF A DISPUTE WHICH HAS ALREADY BEEN SUBMITTED FOR LEGAL SETTLEMENT.

Comment: In any case, peaceful settlement of disputes must be the final purpose of the Organization's activities. That is why, once a dispute has been referred to a court, judicial procedure must be allowed to take its normal course secure from any intervention which might cause the dispute to be withdrawn from the court.

CHAPTER VIII

Section B. Determination of Threats to the Peace or Acts of Aggression and Action with Respect Thereto.

To be added to paragraph 1:

> AT ALL EVENTS, THE COUNCIL WILL LEND ITS ASSISTANCE TO ANY PARTY TO A DISPUTE WHO HAS AGREED TO SUBMIT TO JUDICIAL SETTLEMENT AND TO THE DECISION OF THE COURT, IF REQUIRED.

Comment: The Organization must obviously help any Party to a dispute who submits to the procedure for pacific settlement, including the decision of the court. Nevertheless, the proposed amendment to the Dumbarton Oaks plan will make the text clearer and more precise.

The United Nations Conference on International Organization

RESTRICTED
Doc. 2 (ENGLISH)
G/14(d)

GENERAL

The Delegation of the Union of South Africa under date of April 26, 1945, has indicated that the leader of that Delegation will propose to the Conference the adoption of a preamble to the Charter in the following terms:

DRAFT

"PREAMBLE TO THE CHARTER OF THE UNITED NATIONS".

The High Contracting Parties:

Determined

to prevent a recurrence of the fratricidal strife which has twice in our generation brought untold sorrows and losses on mankind,

and

to re-establish the faith of men and women in fundamental human rights, in the sacredness, essential worth and integrity of the human personality, in the equal rights of individuals and of individual nations large and small, in the enlargment of freedom and the promotion of social progress and the possibility of raising the standards of life everywhere in the world,

and for these ends

to practise tolerance and to live together in peace and peaceful intercourse with each other as good neighbours,

In order to make possible co-operation between nations for the maintenance of international peace and security necessary for these purposes,

By the acceptance of principles and the institution of methods to ensure that armed force is only

*The United Nations Conference
on International Organization*

Doc. 2 (ENGLISH)
G/14 (d) (1)
May 3, 1945

GENERAL

"PREAMBLE TO THE CHARTER OF THE UNITED NATIONS SUBMITTED BY THE SOUTH AFRICAN DELEGATION IN REVISION OF DRAFT OF APRIL 26, 1945

The High Contracting Parties:

Determined

to prevent a recurrence of the fratricidal strife which twice in our generation has brought untold sorrow and loss upon mankind,

and

to re-establish faith in fundamental human rights, in the sanctity and ultimate value of human personality, in the equal rights of men and women and of nations large and small,

and

to promote social progress and better standards of life in larger freedom,

and for these ends

to practice tolerance and to live together in peace with one another as good neighbors,

In order that nations may work together to maintain international peace and security,

By the acceptance of principles and the institution of methods to ensure that armed force shall not be used save in the common interest,

By the provision of means by which all disputes that threaten the maintenance of international peace and security shall be settled,

By the establishment of conditions under which justice and respect for the obligations of international law and treaties and fundamental human rights and freedoms can be maintained,

By the employment of international machinery for the promotion of the economic and social advancement of all peoples,

Agree to this Charter of the United Nations."

GENERAL

FURTHER AMENDMENT TO THE DUMBARTON OAKS PROPOSALS PROPOSED BY THE DELEGATION OF THE UNION OF SOUTH AFRICA

The Delegation of the Union of South Africa proposes the following amendment to the Dumbarton Oaks Proposals:-

After paragraph 10 of Section B Chapter VIII insert a new paragraph to read as follows:-

> "Any country which fails to adjust or settle a dispute by peaceful means in accordance with the provisions of Section A of Chapter VIII and against which action in consequence is taken in terms of paragraphs 3 and 4 of this Section, should be required to pay the costs of such enforcement action and to make reparation for losses and damage sustained thereby. Countries participating in enforcement action should submit their claims, in respect of costs incurred and reparation for losses and damage sustained, to the Security Council for approval and for action required to ensure recovery."

The Delegation of the Union of South Africa appreciates that the costs involved in carrying out the decisions of the Security Council may bear heavily on those countries which will be required to carry out such decisions.

It seems reasonable, therefore, to require the country, against which the World Organization is obliged to apply economic or military sanctions, to pay compensation for losses and damage sustained in enforcing such decisions.

The effect of the proposed amendment, in the view of the Delegation of the Union of South Africa, would briefly be as

follows:-

(a) to provide an additional incentive for small countries to associate themselves with any decision of the Security Council for maintenance of peace and security,

(b) to facilitate the procurement of the necessary approval from the Legislatures of State Members which have not been associated with the decision of the Security Council to take enforcement action,

(c) to provide an additional deterrent to potential aggressors.

585

The United Nations Conference on International Organization

Doc. 2 (ENGLISH)
G/14(w)(1)
May 8, 1945

GENERAL

TRANSLATION

AMENDMENT TO THE DUMBARTON OAKS PROPOSALS SUBMITTED BY THE DELEGATION OF THE SOVIET UNION

CHAPTER VIII, SECTION C

2. The Security Council shall, where appropriate, utilize such arrangements or regional agencies for coercive action under its guidance. But no coercive action may be taken under regional agreements without the authorization of the Security Council, excepting measures which are provided for in the regional agreements and directed against renewal of a policy of aggression on the part of the aggressor-states in this war. The states parties [to the arrangements] must communicate to the Security Council, at the earliest possible date, measures which they intend to take for the purpose of fulfillment of the terms of the above-mentioned treaties.

Note: Words in brackets are inserted in translation. They are not in original text.

AMENDMENTS PROPOSED JOINTLY BY THE GOVERNMENTS OF CHINA, THE UNION OF SOVIET SOCIALIST REPUBLICS, THE UNITED KINGDOM, AND THE UNITED STATES ARE CONTAINED IN A SEPARATE DOCUMENT AT THE END OF THIS VOLUME.

The United Nations Conference
on International Organization

Doc. 2 (ENGLISH)
C/14 (p)
May 5, 1945

GENERAL

PROPOSED AMENDMENTS TO THE DUMBARTON OAKS PROPOSALS

SUBMITTED BY THE UNITED KINGDOM DELEGATION

PROPOSED REDRAFT OF CHAPTER IX

SECTION A. Purpose and Relationships

(New passages underlined)

"1. With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations, the Organization should, in association with the International Labour Organization and other bodies concerned, facilitate solutions of international economic, social and other humanitarian problems and promote respect for human rights and fundamental freedoms. Responsibility for the discharge of this function should be vested in the General Assembly and, under the authority of the General Assembly, in an Economic and Social Council.

2. The various specialised economic, social and other organizations and agencies would have responsibilities in their respective fields as defined in their statutes. Each such organization or agency should be brought into relationship with the Organization on terms to be determined by agreement between the Economic and Social Council and the appropriate authorities of the specialised organization or agency, subject to approval by the General Assembly.

3. In view of its tripartite constitution the International Labour Organization should, subject to the provisions of paragraph 2 above, be brought into special relationship with the Organization and should be an important instrument through which should be pursued the object of securing for all improved labour standards, economic advancement and social security".

Proposed redraft of Paragraph 2, Section (c) Chapter VIII

2. The Security Council should, where appropriate, utilize such arrangements or agencies for enforcement action under its authority. But no enforcement action should be taken under regional arrangements or by regional agencies without the authorization of the Security Council with the exception of measures against enemy states in this war provided for pursuant to Chapter 12 paragraph 2, or in regional arrangements directed against renewal of aggressive policy on the part of such states, until such time as the Organization may, by consent of the Governments concerned, be charged with the responsibility for preventing further aggression by a State now at war with the United Nations.

Proposed new paragraph to be inserted after paragraph 6 of Section B. of Chapter V.

6(a) The General Assembly should be empowered to recommend measures for the peaceful adjustment of any situations, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, and of situations resulting from a violation of the Purposes and Principles set forth in this Charter.

The United Nations Conference on International Organization

Doc 2 (ENGLISH)
G/14/(p) (1)
May 6, 1945

GENERAL

CORRIGENDUM FOR DOCUMENT 2 (ENGLISH), G/14 (P)

The last paragraph of Document 2 (English), G/14 (p), "Proposed Amendments to the Dumbarton Oaks Proposals Submitted by the United Kingdom Delegation", should be corrected as follows:

Insert between "6(a)" and "The", the following words:

"Subject to the provisions of paragraph 1 of this Section,"

The United Nations Conference
on International Organization

Doc. 2 (ENGLISH)
G/26 (d)
May 6, 1945

GENERAL

TERRITORIAL TRUSTEESHIP

UNITED KINGDOM DRAFT OF CHAPTER FOR INCLUSION IN UNITED NATIONS CHARTER

Chapter ...... Territorial Trusteeship

1, States Members of the United Nations which have responsibilities for the administration of dependent territories inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, accept the general principle that it is the sacred trust of civilisation to promote to the utmost the well-being of the inhabitants of these territories within the world community. This objective implies, in particular (i) the economic and social advancement of the dependent peoples concerned, and (ii) the development of self-government in forms appropriate to the varying circumstances of each territory. Further, such States agree that their policy in respect of dependent territories, no less than in respect of their metropolitan areas, must be based on the general principle of good-neighbourliness, due account being taken of the interests and well-being of other members of the world community, in defence, social, economic, and commercial matters.

2. For certain territories in each of the categories mentioned below it is desirable to establish special machinery to ensure the application of the principle stated in paragraph 1 of this Chapter. These categories are;

(a) territories administered by States Members of the United Nations under Mandate from the League of Nations

(b) certain territories which as a consequence of the present war may be removed from the sovereignty of Mandate of States not Members of the United Nations

(c) any other territory to which the special machinery prescribed in this Chapter may be applied voluntarily by the State under whose sovereignty or protection the territory is administered,

3. In order to give practical effect, in the categories of territory mentioned in paragraph 2 of this Chapter, to the principle stated in paragraph 1, the tutelage of such peoples should be made, or should remain, the responsibility of advanced nations, who are best fitted to undertake this responsibility and who are willing to accept it; and this tutelage should be exercised by them on behalf of the United Nations.

4. The character of the trust must differ according to the stage of the development of the people, the geographical situation of the territory, its economic condition, and other similar circumstances. The details will be matters for subsequent agreement between the State entrusted with the administration of the territory and the United Nations. No revision of existing League of Nations Mandates exercised by States Members of the United Nations shall be made without the agreement of the Mandatory Power concerned.

5. It shall be the duty of the State administering any territory to which the special machinery prescribed in paragraphs 2 to 8 of this Chapter may be applied to ensure that the territory shall play its part in the maintenance of international peace and security. To this end the State shall be empowered to make use of forces, facilities, and assistance from the territory in carrying out the obligations undertaken by the State to the Security Council in this regard and for local defence and the maintenance of law and order within the territory.

6. The State administering any territory to which the special machinery prescribed in paragraphs 2 to 8 of this Chapter may be applied shall furnish to the Security Council such information in respect of such territories as the Security Council on the advice of the Military Staff Committee may require, as regards any forces, facilities, or assistance which the State may employ from the resources of the territories, in the discharge of the State's obligations in respect of international peace and security under this Charter.

7. The State administering any territory to which the special machinery prescribed in paragraphs 2 to 8 of this Chapter may be applied shall render annual reports to the Economic and Social Council on the economic and social advancement of the inhabitants and the civil administration of the territory.

8. A permanent commission shall be constituted to prescribe the form of the annual reports referred to in paragraph 7, to receive and examine them, and to advise the Economic and Social Council on all matters relating to the observance of the terms of trusteeship, other than security matters, which apply to each territory.

TERRITORIAL TRUSTEESHIP

An explanatory note on the draft Chapter submitted by the UNITED KINGDOM DELEGATION

1. His Majesty's Government in the United Kingdom approach the problem of trusteeship from the standpoint that the primary objective of any trusteeship system is the well-being of the inhabitants of territories which are not yet able to stand by themselves. In this respect their approach follows closely the lines of Article 22 of the Covenant of the League of Nations. Questions of security policy are also bound to arise in relation to territories under trusteeship and therefore suitable arrangements must be made in any trusteeship system for meeting security requirements. In the draft circulated by the United Kingdom Delegation an attempt has been made to meet in full the security requirements, while at the same time making it clear that the well-being of the inhabitants is the major objective of the trusteeship system.

2. His Majesty's Government in the United Kingdom draw a distinction between the principle of trusteeship which should guide Colonial Powers in the administration of their dependent territories (and should therefore be of universal application) and the creation of a special system of international machinery, to apply to certain specified territories. The fact that a particular territory is not placed under such special machinery does not mean that the parent State is not being guided, or that it is absolved from being guided, by the general policy of trusteeship in its administration of territories outside the system.

3. In framing any trusteeship system, His Majesty's Government in the United Kingdom think IT desirable to avoid so far as possible the laying down of rigid or detailed lines of policy in the Charter of the United Nations Organisation. The reason for this is that times change and a policy which may have been considered enlightened and satisfactory in 1945 may prove in later years, with changing world circumstances, to be operating to the disadvantage of the inhabitants of the territories or contrary to their wishes as they become more capable of political self expression. Any system drawn up should, therefore, be capable of easy amendment from time to time as circumstances may require. If policy directives are included in the Charter of the Organisation, it will be impossible to bring those directives up to date without an amendment of the Charter itself. The Charter, therefore, should be framed in the broadest general terms and any details of policy which may be thought necessary should be contained in the Mandates or other similar documents, which should be capable of revision by some less complicated process than that required for an amendment of the Charter itself.

4. Comments on the United Kingdom draft, paragraph by paragraph, follow:-

Paragraph 1.

No further comment seems necessary.

Paragraph 2.

Classification of the categories of territories for which the international machinery of trusteeship may be required is in accordance with the conclusions reached at the Yalta Conference, though drafting amendments have been made for the sake of greater precision. No special comment seems to be necessary.

Paragraph 3.

This is derived from Article 22 of the Covenant, but revised so as to have regard to the different classification of territories which may be brought under the proposed machinery under paragraph 2 of the draft.

Paragraph 4.

This again is based generally on Article 22 of the Covenant. It recognises that the individual "Mandates" will not necessarily be in standard terms, and that some revision of existing "Mandates" will not necessarily be in standard terms, and that some revision of existing Mandates will be necessary.

Paragraphs 5 and 6.

These paragraphs deal with security matters. For the reasons given in paragraph 1 of this note, the United Kingdom approach to this question differs materially from that adopted in the United States draft, but it is felt that the United Kingdom draft provides all the safeguards which are provided in a different way by the United States proposals. The latter contemplate the division of the territories covered by the trusteeship system into two categories, viz. (a) strategic areas administered by States subject only to a limited degree of supervision by the Security Council and (b) other areas which would be under the supervision of a Trusteeship Council responsible to the General Assembly. In the United Kingdom view, this sub-division is unsatisfactory on three grounds. First, for the United Kingdom Government, the interests of the indigenous inhabitants are a paramount consideration; and in so far as the social and economic problems affecting the

inhabitants of territories in the categories mentioned in the Yalta Protocol require a measure of international supervision, this supervision is just as necessary in strategic areas as in other areas. Indeed, it is probably in areas of strategic importance that the social problems such as housing, labour conditions, etc., are likely to assume special significance. Secondly, and particularly in large territories, it does not seem possible to draw a hard and fast line separating strategic areas from non-strategic areas; and consequently, if the security interests were to be properly safeguarded under the United States scheme of sub-division, it might often be necessary to designate the whole of a large territory inhabited by dependent peoples as a strategic area - a course which, though no doubt satisfactory from the purely military standpoint would be open to criticism on wider grounds in that it would remove from the purview of the Trusteeship Council many of the matters for which the trusteeship system was primarily designed twenty-five years ago. Thirdly, it seems most desirable that a Mandatory Power should be permitted to mobilise the war potential of its Mandated territories as well as of its Colonies, as part of its contribution to the maintenance of international peace and security, provided that the military policy of all States is brought into conformity with their obligations under the United Nations Organisation. The United Kingdom draft, by avoiding any distinction between "strategic" and other areas, but differentiating between civil and security functions, not only meets any possible charge of annexation or infringement of the Atlantic Charter but states in more positive form than does the United States proposal that territories under the "Trusteeship" System will be called upon to contribute from their resources towards international peace and security. At the same time, the United Kingdom proposal will not embarrass "Mandatory" Powers in the exercise of security functions in the territories concerned.

Paragraph 7.

This deals with reports on the civil aspects of administration only. It does not extend to security matters which are dealt with separately in paragraphs 5 and 6.

Paragraph 8.

Here again, it is made clear that the new international organ analogous to the Permanent Mandates Commission will have no power to intervene in security matters. It will, however, be empowered to deal with the civil aspects of administration in all territories to which the system may be applied. The United Kingdom draft differs from the United States draft in that the former does not go into any great detail as to the

methods of procedure or composition of the Trusteeship organ. In this respect the United Kingdom draft follows Article 22 of the Covenant. It contemplates however that the organ should be a Commission under the Economic and Social Council. The matters with which the Commission is concerned will be economic social and humanitarian, and it is appropriate that it should be directly responsible to the body which will co-ordinate the activities of the United Nations Organisation and of its associated specialised organs with regard to these matters.

AMENDMENTS PROPOSED JOINTLY BY THE GOVERNMENTS OF CHINA, THE UNION OF SOVIET SOCIALIST REPUBLICS, THE UNITED KINGDOM, AND THE UNITED STATES ARE CONTAINED IN A SEPARATE DOCUMENT AT THE END OF THIS VOLUME.

The United Nations Conference on International Organization

Doc. 2 (ENGLISH)
G/14 (v)
May 6, 1945

GENERAL

ADDITIONAL AMENDMENTS TO THE DUMBARTON OAKS PROPOSALS PROPOSED BY THE UNITED STATES

CHAPTER V. THE GENERAL ASSEMBLY

Section B - Functions and Powers

New paragraph to follow paragraph 6:

Subject to the provisions of paragraph 1 of this Section, the General Assembly should be empowered to recommend measures for the peaceful adjustment of any situations, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the Purposes and Principles set forth in this Charter.

CHAPTER VIII. ARRANGEMENTS FOR THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY INCLUDING PREVENTION AND SUPPRESSION OF AGGRESSION

Section C - Regional Arrangements

2. The Security Council should, where appropriate, utilize such arrangements or agencies for enforcement action under its authority. But no enforcement action should be taken under regional arrangements or by regional agencies without the authorization of the Security Council with the exception of measures against enemy states in this war provided for pursuant to Chapter XII, paragraph 2, or, in regional arrangements directed against renewal of

aggressive policy on the part of such states, until such time as the Organization may, by consent of the Governments concerned, be charged with the responsibility for preventing further aggression by a state now at war with the United Nations.

(Note: Amendments are indicated by underscoring added passages and striking out deleted passages.)

ARRANGEMENTS FOR INTERNATIONAL TRUSTEESHIP

Additional Chapter Proposed by the United States

(Note: This draft deals with principles and mechanism only and makes no assumption about the inclusion of any specific territory.)

1. The Organization should establish under its authority a system of international trusteeship for the administration and supervision of such territories as may be placed thereunder by subsequent agreement.

2. The basic objectives of the trusteeship system should be: (a) to further international peace and security; (b) to promote the political, economic, and social advancement of the trust territories and their inhabitants and their progressive development toward self-government; and (c) to provide for nondiscriminatory treatment in trust territories with respect to the economic and other appropriate civil activities of the nationals of all member states.

3. The trusteeship system should apply only to such territories in the following categories as may be placed thereunder by means of trusteeship arrangements: (a) territories now held under mandate; (b) territories which may be detached from enemy states as a result of this war; and (c) territories voluntarily placed under the system by states responsible for their administration. It would be a matter for subsequent agreement as to which territories would be brought under a trusteeship system and upon what terms.

4. The trusteeship arrangement for each territory to be placed under trusteeship should be agreed upon by

the states directly concerned and should be approved as provided for in paragraphs 7 and 8 below.

5. The trusteeship arrangements in each case should include the terms under which the territory will be administered.

6. There may be designated, in the trusteeship arrangement, a strategic area or areas which may include part or all of the territory to which the arrangement applies.

7. All functions of the Organization relating to strategic areas, including the approval of the trusteeship arrangements and their alteration or amendment, should be exercised by the Security Council.

8. The functions of the Organization with regard to trusteeship arrangements for all other areas should be exercised by the General Assembly.

9. In order to assist the General Assembly to carry out those functions under the trusteeship system not reserved to the Security Council, there should be established a Trusteeship Council which would operate under its authority. The Trusteeship Council should consist of specially qualified representatives, designated (a) one each by the states administering trust territories; and (b) one each by an equal number of other states named for three-year periods by the General Assembly.

10. The General Assembly and, under its authority, the Trusteeship Council, in carrying out their functions, should be empowered to consider reports submitted by the administering authorities, to accept petitions, to institute investigations, and to take other action within their competence as defined by the trusteeship arrangements.

11. The administering authority in each trust territory within the competence of the General Assembly should make an annual report to the General Assembly upon the basis of a questionnaire formulated by the Trusteeship Council.

The United Nations Conference on International Organization

GENERAL

RESTRICTED
Doc. 2 (ENGLISH)
G/26 (C)
May 5, 1945

ARRANGEMENTS FOR INTERNATIONAL TRUSTEESHIP

Additional Chapter Proposed by
the United States

(Note: This draft deals with principles and mechanism only and makes no assumption about the inclusion of any specific territory.)

1. The Organization should establish under its authority a system of international trusteeship for the administration and supervision of such territories as may be placed thereunder by subsequent agreement.

2. The basic objectives of the trusteeship system should be: (a) to further international peace and security; (b) to promote the political, economic, and social advancement of the trust territories and their inhabitants and their progressive development toward self-government; and (c) to provide for non-discriminatory treatment in trust territories with respect to the economic and other appropriate civil activities of the nationals of all member states.

3. The trusteeship system should apply only to such territories in the following categories as may be placed thereunder by means of trusteeship arrangements: (a) territories now held under mandate; (b) territories which may be detached from enemy states as a result of this war; and (c) territories voluntarily placed under the system by states responsible for their administration. It would be a matter for subsequent agreement as to which territories would be brought under a trusteeship system and upon what terms.

4. The trusteeship arrangement for each territory to be placed under trusteeship should be agreed upon by the states directly concerned and should be approved as provided for in paragraphs 7 and 8 below.

5. The trusteeship arrangements in each case should include the terms under which the territory will be administered.

6. There may be designated, in the trusteeship arrangement, a strategic area or areas which may include part or all of the territory to which the arrangement applies.

7. All functions of the Organization relating to strategic areas, including the approval of the trusteeship arrangements and their alteration or amendment, should be exercised by the Security Council.

8. The functions of the Organization with regard to trusteeship arrangements for all other areas should be exercised by the General Assembly.

9. In order to assist the General Assembly to carry out those functions under the trusteeship system not reserved to the Security Council, there should be established a Trusteeship Council which would operate under its authority. The Trusteeship Council should consist of specially qualified representatives, designated (a) one each by the states administering trust territories; and (b) one each by an equal number of other states named for three-year periods by the General Assembly.

10. The General Assembly, and under its authority, the Trusteeship Council, in carrying out their functions should be empowered to consider reports submitted by the administering authorities, to accept petitions, to institute investigations, and to take other action within their competence as defined by the trusteeship arrangements.

11. The administering authority in each trust territory within the competence of the General Assembly should make an annual report to the General Assembly upon the basis of a questionnaire formulated by the Trusteeship Council.

AMENDMENTS PROPOSED JOINTLY BY THE GOVERNMENTS OF CHINA, THE UNION OF SOVIET SOCIALIST REPUBLICS, THE UNITED KINGDOM, AND THE UNITED STATES ARE CONTAINED IN A SEPARATE DOCUMENT AT THE END OF THIS VOLUME.

The United Nations Conference
on International Organization

Doc. 2 (ENGLISH)
G/7 (a) (1)
May 5, 1945

GENERAL

NEW URUGUAYAN PROPOSALS ON THE DUMBARTON OAKS PROPOSALS

(COMMISSION I - COMMITTEE 1)

PROPOSAL TO CHANGE THE NAME OF THE ORGANIZATION AND THE TEXT OF CHAPTERS I and II OF THE DUMBARTON OAKS PROPOSALS. (With the text of the amendments underlined.)

There is hereby created an International Organization, to be called the Association of Nations, composed of States, dominions and colonies which govern themselves freely.

CHAPTER I. PURPOSES

The purposes of the Organization shall be:

1. To maintain international peace, security and justice; and to that end to take effective collective measures for the prevention and removal of threats to the peace, and the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful and equitable means adjustment or settlement of international disputes which may lead to a breach of the peace.

2. To develop friendly relations among nations and to take appropriate measures to ensure universal peace by the rule of morality and law.

3. To achieve international cooperation in the solution of international economic, social, cultural and humanitarian problems.

4. To promote the recognition of and guarantee respect for the essential human liberties and rights without distinction as to race, sex, belief or social status. These liberties and rights are to be defined in a special charter.

The "Charter of Mankind" mentioned above shall be submitted to the consideration of the Assembly within a period of not more than six months, by a Technical and Juridical Commission designated by the Assembly, with notice in advance to each Government, and shall contain:

(a) Declarations of rights and

(b) a system of effective international juridical guardianship of those rights.

5. To afford a center for harmonizing the actions of Nations in the achievement of these common ends.

CHAPTER II. PRINCIPLES

In pursuit of the purposes mentioned in Chapter I, the Organization and its members should act in accordance with the following principles.

1. The Organization is based on the essential principles,

(a) of the juridical equality of all its members;

(b) of the maintenance of their political independence and territorial integrity, and of the rights inherent in their full sovereignty.

2. All members of the Organization undertake, in order to ensure to all of them the rights and benefits resulting from membership in the Organization:

(a) to respect the fundamental rules of international law and of the essential rights of mankind, internationally established and guaranteed;

(b) to observe the agreements, conventions and treaties which are not inconsistent with the provisions of this Charter, and to adjust their constitutional systems to the juridical principles of this Organization;

(c) to maintain international free communication and information;

(d) to fulfill faithfully all the obligations assumed by them in accordance with the Charter.

(The present wording of numbers 3, 4, 5 and 6 is retained.)

The last paragraph shall have the following form:

In order to maintain international peace and security, the Organization must take all the measures which it may deem necessary to have non-member States act in accordance with its principles.

(COMMISSION I - COMMITTEE 2)

DRAFT TO TAKE THE PLACE OF CHAPTER III OF THE DUMBARTON OAKS PROPOSALS

CHAPTER III. MEMBERSHIP

1. All the nations participating in the Conference of San Francisco shall be permanent members of the Organization; they shall undertake to be supporters of world peace, in internal systems of law and freedom which implement justice.

2. The universality and permanence of the Organization prevent withdrawal from it, and require that it be considered as being integrated by the other nations, whose status as members shall be held suspended until the Assembly considers that they are in a position to act within the Organization.

(COMMISSION I - COMMITTEE 2)

DRAFT OF PROVISIONS COMPLEMENTARY TO CHAPTER XII - TRANSITIONAL ARRANGEMENTS

(The present text of Nos. 1 and 2 will be retained.)

3. Pending the approval of the Charter of Rights of Mankind and the system of guarantees, the essential rights to life, to freedom of worship and of thought, equality of races and of treatment by the courts, shall be respected by the members of the Organization, and the Security Council must act on the accusations presented to it regarding violations of such principles.

4. Nations producing armament and war materials in general shall study means for transforming the stocks on hand at the end of the war into instruments for peaceful work, preventing their distribution through the remainder of the world for military purposes.

5. The members of the Association of Nations undertake to enact laws in their respective countries for the purpose of establishing the illegality of any industrial and commercial activity involving implements of warfare--without exception--unless performed by the State itself.

Chapter X, paragraph 1, shall have the following wording:

1. There shall be a Secretariat comprising a Secretary General and such staff as may be required, made up through broad international representation and open to men and women alike. The Secretary General shall be the chief administrative officer of the Organization; he shall be elected by the General Assembly from three candidates nominated, and his term of office shall be five years.

Upon accepting their appointment, the members of the Secretariat must pledge themselves to govern their activities and regulate their conduct, bearing in mind only the higher interests of the international community. They may not solicit or receive instructions from any Government or authority outside the Secretariat itself.

Chapter X, paragraph 3, shall have the following wording:

3. The Secretary General shall have the right to bring to the attention of the Security Council any matter which in his opinion may threaten international peace and security or the inviolability of the provisions of this Statute.

MODIFICATION OF CHAPTER IV - PRINCIPAL ORGANS

The present wording of paragraph 1 is to be retained.

Paragraph 2 should have the following wording:

2. Representation and participation in the organs of the Organization shall be open both to men and women under the same conditions.

Paragraph 3 shall have the wording of paragraph 2 of the original Proposals.

(COMMISSION II - COMMITTEE 1)

Chapter V, Section B, paragraph 1, shall have the following wording:

The General Assembly shall have the right to consider and formulate, on the initiative of any of its members or those of the Security Council, recommendations on:

(a) the general principles of cooperation for the maintenance of international peace and security;

(b) questions relative to the maintenance of international peace and security, especially in cases in which acts are counter to any of the purposes set forth in Chapter I of the Statute;

(c) amendments to be introduced into the Statute of the Organization.

Any question on which it may be necessary to take action must be referred by the General Assembly to the Security Council, either before or after discussing it. The General Assembly, retaining its right of examination, shall not on its own initiative make recommendations on any matter relating to the maintenance of international peace and security in which the Security Council may have intervened.

Chapter V, Section B, paragraph 2, shall be worded as follows:

The General Assembly shall be empowered to admit new members to the Organization upon recommendation of the Security Council and to support such recommendations.

Chapter V, Section B, paragraph 3, shall be worded as follows:

The General Assembly shall, upon recommendation of the Security Council, be empowered to suspend from the exercise of any rights or privileges of membership any member of the Organization against which preventive or enforcement action shall have been taken by the Security Council. The exercise of the rights and privileges thus suspended may be restored by decision of the Security Council, after such decision, together with a statement of reasons therefor, has been communicated to the General Assembly. (The last sentence of this paragraph, treating of the expulsion of members of the Organization, is to be omitted.)

Chapter V, Section B, paragraph 4, shall be worded as follows:

The General Assembly shall elect the non-permanent members of the Security Council and the members of the Economic and Social Council provided for in Chapter IX. The General Assembly shall be empowered to elect the Secretary General of the Organization from a list of three candidates submitted by the Security Council, and it shall perform such functions in relation to the election of the judges of the International Court of Justice as may be conferred upon it by the Statute of the Court.

Chapter V, Section C, paragraph 2, shall be worded as follows:

Important decisions of the General Assembly, including recommendations with respect to the maintenance of international peace and security; election of members of the Security Council; election of members of the Economic and Social Council; admission of members and suspension of the exercise of the rights and privileges of members; and budgetary questions, shall be made by a two-thirds majority of those present and voting. On other questions, including the determination of additional categories of questions to be decided by a two-thirds majority, the decisions of the General Assembly shall be made by a simple majority vote.

Chapter V, Section D, paragraph 1 shall be worded as follows:

The General Assembly shall meet in regular annual sessions and in such special sessions as occasion may require, on the initiative of the Security Council or of the Assembly itself, by a simple majority of its members.

MODIFICATION OF CHAPTER VIII, SECTION B, PARAGRAPH 9 OF THE DUMBARTON OAKS PROPOSALS

The text of the paragraph mentioned shall read as follows:

9. (a) There should be established a Military Staff Committee the functions of which should be to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, to the employment and command of forces placed at its disposal, to the regulation of armaments, and to possible disarmament. It should be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. The Committee should be composed of the Chiefs of Staff of the permanent members of the Security Council and the Chief of Staff of each of the military regions into which the world is divided, or their representatives.

(b) The Security Council should establish the military regions into which the world would be divided.

(c) In each region there would be a Regional Staff made up of a representative of each country included in the region, and its Chief would be elected by them. He should be from one of the countries composing the region, and could be removed from his post by the Military Staff Committee.

(d) Each country would have part of its military forces at the disposal of the World Organization, and such forces would act by order of the Security Council, through the Regional Staffs, or by order of the Regional Staff in case of invasion of the territory of any of the countries in the region, notifying the Security Council, which could check such action.

(e) When bases for military, naval or air operations are to be established, of such size that the country in which they are to be established cannot finance them, that country shall receive economic and technical assistance if it so requests, but the bases shall remain under command of and shall be operated exclusively by nationals of that country.

(f) Questions regarding command of the forces should be settled subsequently.

(COMMISSION II - COMMITTEE 3)

Proposal for Addition to Chapter IX, Section A, paragraph 1, the text of which shall read as follows:

1. With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations, the Organization shall facilitate solutions of international economic, social and cultural, and other humanitarian problems; promote respect for human rights and fundamental freedoms and promote the application of the democratic principle of equality of rights and duties for man and woman, conditions being equal.

Chapter IX, Section D, paragraph 1 of the Dumbarton Oaks Proposals, shall be worded as follows:

1. The Economic and Social Council shall set up an economic commission, a social commission, and such other commissions as may be required. These commissions shall consist of experts. There shall be a permanent staff which shall constitute a part of the Secretariat of the Organization.

As principles to be taken into consideration by the Economic and Social Council for organizing the International Commission on Intellectual Cooperation, the following are formulated:

1. It shall be composed of 18 members elected by the General Assembly, who shall serve for six years, one-third of their number being elected at a time.

2. Its chief function shall be to advise the Assembly and to supervise all the bodies constituting the Organization.

3. There shall be a commission of experts composed of 21 members with permanent tenure, the commission being divided into the following sections: primary, secondary, higher and industrial instruction; arts, sciences and letters.

4. Each Section may designate a larger number of members temporarily for the purpose of securing information on the problems submitted to it for study.

5. There shall be a commission on cultural interchange: it shall be composed of seven members.

6. It shall concern itself with maintaining relations with all the bodies which direct education in the various countries and shall promote in particular the interchange of students and teachers, facilitating to the greatest extent possible the creation of scholarships to be offered to persons desiring to perfect their knowledge.

7. Through those bodies, an effort shall be made to have the instruction imparted throughout the world aim at rapprochement and acquaintance among nations, disseminating ideas of mutual respect and friendship.

8. It shall also engage in putting out publications which disseminate everything relative to international culture, distributing them as widely as possible.

The organization for intellectual cooperation should be authorized:

(a) to carry out within the scope of its functions recommendations of the General Assembly;

(b) to make recommendations on its own initiative with respect to cultural matters;

(c) to receive and consider reports from the cultural organizations or agencies which may maintain relations with the Organization, and to coordinate the work of the said organizations or bodies by means of recommendations or advice;

(d) to perform such other functions as might be assigned to it, within the general scope of its competence by the General Assembly.

(COMMISSION II - COMMITTEE 3)

AMENDMENTS WHICH URUGUAY PROPOSES WITH REGARD TO CHAPTER IX OF THE DUMBARTON OAKS PROPOSALS

Provisions for international cooperation in the solution of economic and social problems

(Note: The provisions underlined are the amendments proposed.)

SECTION A:

PROPOSALS AND COMMENT

1. The United Nations recognize that economic progress and social well-being are essential conditions for the existence of permanent peace founded on friendly relations between States. They declare that the purpose of the State is the happiness of man within society without distinction as to race, creed or sex, and under conditions insuring him freedom and dignity, economic security and equality or opportunities. They affirm that refusal or lack of interest of any nations in establishing humane and just conditions for work and living impedes the effort of the other nations in pursuing the objectives stated above, and consequently holding back the progress and well-being of peoples. And for these reasons they proclaim the need for an Organization to promote harmonious international action by the States facilitating the solution of their problems of economic, social and humanitarian character and at the same time promote respect for the essential rights and freedoms of the human individual.

The United Nations agree in recognizing that among the purposes to be developed by the Organization the following would be endowed with prime importance:

A. Cooperation for the restoration of international trade and promotion of investments of capital as a means for obtaining high levels of income, employment and consumption on the basis of equality of access to trade, raw materials and products necessary for the economic development of peoples.

B. (1) Improvement in labor conditions, reaffirming and strengthening the principle that "human labor is not a commodity".

(2) The securing of a standard of living which will ensure to man access to adequate food, healthful housing, decent clothing and the other essentials to a healthy and happy life free from fear of want.

(3) Protection of children and women to such an extent as to ensure the moral stability and the economic and social welfare of the family.

C. Intellectual cooperation among the Nations to stimulate the cultural improvement of peoples, their love for peace and justice, respect for the sanctity of treaties and a feeling of good-neighbourliness.

The responsibility for the performance of this function should rest with the General Assembly and, subject to the authority of the General Assembly, with an Economic and Social Council. Recognizing that social peace is indispensable for the well-being and progress of peoples, employers and labourers of the Member States would be invited to participate together with their respective Governments, in the operation of the Organization referred to.

2. The various specialized organizations and entities of an economic or social character or of other type should have in their respective fields the responsibilities stipulated by their charters. Relations should be established between each of the said organizations or agencies and the Organization, under the terms established by agreements between the Economic and Social Council and the competent authorities of the specialized organization or agency concerned, subject to the approval of the General Assembly.

As far as the protection of workers and the improvement of labour conditions are concerned, the Assembly could arrange to have the functions in connection with this matter exercised by the International Labor Organization with the program and standards of its constitution and functioning without prejudice to the adjustments that might be deemed necessary.

SECTION B:

COMPOSITION OF THE ASSEMBLY AND THE COUNCIL

Voting

1. (a) For discussion and voting on matters connected with international cooperation in the solution of economic and social problems, the Delegations to the General Assembly of the Organization should consist of two delegates who would represent respectively the employers and the workers of the said States which are Members of the Organization.

   (b) Each Delegate might be accompanied in performing his duties by not more than two technical advisers for each of the questions appearing on the order of the day. One of these technical advisers should be a woman when problems connected with the protection of women are under discussion. The technical advisers should also act as alternate delegates.

(c) The Employer and Labour representatives as well as their technical advisers should be designated by the States which are Members of the Organization at the recommendation of the Business and Labour Organizations in the territory of each of them that are most representative.

(d) Decisions of the Assembly for which a special majority is not established should be adopted by a simple majority vote provided that a majority of all its members is present and a majority of the government delegates.

2. The Economic and Social Council should be composed of eighteen members of the Organization. The States to be represented for this purpose should be elected by the General Assembly for terms of three years, each such State should have one representative who should have one vote. Decisions of the Economic Council should be taken by simple majority vote of those present.

SECTION C:

POWERS OF THE ASSEMBLY AND ECONOMIC AND SOCIAL COUNCIL

1. The decisions of the General Assembly might take the form of:

(a) the "recommendation" for the competent authorities of each one of the Members to adopt measures regarding a given matter.

(b) the "draft" international convention to be submitted for ratification to the competent authority or authorities of each of the States which are Members of the Organization.

Immediately after the Organization is constituted, the General Assembly should propose to the States which are Members of the Organization whe regulations which may be considered necessary to facilitate the application of its "recommendations" and the ratification of the "draft" conventions as well as respect for the provisions contained therein. There would likewise be established at that time, regulations concerning the voting on resolutions of that kind.

2. The Economic and Social Council should be empowered:

(a) to carry out within the scope of its functions, recommendations of the General Assembly;

(b) to make recommendations on its own initiative and within the scope of its functions with respect to international economic and social and other humanitarian matters.

(c) to receive and consider reports from the economic, social and other organizations or agencies brought into relationship with the Organization, and to coordinate their activities through consultations with, and recommendations to, such organizations or agencies.

SECTION D:

ORGANIZATION AND PROCEDURE

1. The Economic and Social Council should set up an Economic Commission, a Social Commission and a commission for the problems of education and culture, and such other commissions as may be required. Members of the Organization not represented on the Economic and Social Council should be given places on the said Commissions in so far as may be practicable and expedient. The Commissions referred to should have directors and technical assistants. There should be a permanent staff which should constitute part of the Secretariat of the Organization.

2. The Economic and Social Council should make suitable arrangements for representatives of the specialized organizations or agencies to participate without vote in its deliberations and in those of the commissions established by it.

3. The Economic and Social Council should adopt its own rules of procedure and the method of selecting its President.

(COMMISSION III - COMMITTEE 1)

Chapter VI, Section A, shall read as follows:

The Security Council shall consist of one representative of each of eleven Members of the Organization. Representatives of the United States of America, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the Republic of China and, in due course, France, should have permanent seats. The General Assembly should elect six States to fill the non-permanent seats, giving representation to regional units with generally recognized international individuality by rotation among them, each of the States composing them and not represented on the Security Council. (The remainder of the article shall retain the same wording as in the Proposals.)

(COMMISSION III - COMMITTEE 1)

Chapter VI, Section B, paragraph 5, shall be worded as follows:

In order to promote the establishment and maintenance of international peace and security with the least diversion of the world's human and economic resources for armaments, the Security Council, with the assistance of the Military Staff Committee referred to in Chapter VIII, Section B, paragraph 9, shall have the responsibility for formulating plans for the establishment of a system of regulation of armaments, the production of which shall be reserved exclusively to governments, for submission to the members of the Organization.

In Chapter VI, Section C, there shall be added, as number 4, a paragraph reading as follows:

4. The Security Council shall examine every three years, or upon its own initiative, the possibility of making generally applicable to all decisions the rule contained in the second part of the preceding numbered paragraph.

(COMMISSION III - COMMITTEE 2)

PEACEFUL SETTLEMENT OF DISPUTES

Chapter VIII, Section A, of the Dumbarton Oaks Proposals

6. Justiciable disputes shall be referred to the International Court of Justice. The Security Council may request the opinion of the court on legal questions connected with their disputes.

In the case of disputes which the Security Council considers not justiciable and the parties to which have not reached an agreement for the settlement thereof, as provided in paragraph 3, Section A, of this Chapter, that Council shall set up as a matter of urgency an arbitration tribunal for the settlement of the dispute.

To do this, the Security Council shall be empowered to decide on the number, names and powers of the arbitrators, and also on the procedure to be followed by the tribunal.

In selecting arbitrators, care shall be taken that their nationality, education and experience offer the greatest guarantees of competence and impartiality.

(COMMISSION IV - COMMITTEE 1)

INTERNATIONAL COURT OF JUSTICE

Additional provision in continuation of article 36 (text on obligatory jurisdiction) approved by the United Nations Committee of Jurists meeting at Washington, D. C., on April 20, 1945.

When the court considers that a matter which has been submitted to it is not of a juridical character, it shall establish an arbitration tribunal for the purpose of resolving it.

For that purpose, it shall have competence to decide everything regarding the number, names and powers of the arbitrators as well as with regard to the procedure which is to be followed by the arbitral tribunal.

In addition to the foregoing document, the Delegation of Uruguay wishes to call the attention of all delegates to the speech of the Foreign Minister of Uruguay which appears in Document 24, P/8: Verbatim Minutes of the Fourth Plenary Session, April 28, 1945, 3:50 p.m.

The United Nations Conference
on International Organization

GENERAL

Doc. 2 (English)
G/7(d)(1)

VENEZUELA
October 31, 1944

[TRANSLATION]

OBSERVATIONS OF THE GOVERNMENT OF VENEZUELA ON THE RECOMMENDATIONS ADOPTED AT THE DUMBARTON OAKS CONFERENCES FOR THE CREATION OF A PEACE ORGANIZATION

The Government of Venezuela, through its authorized agencies, has studied the Recommendations adopted at the Dumbarton Oaks Conference by the delegations of the United States of America, Great Britain, USSR, and China, concerning the creation of an organization to which shall be entrusted the preservation of the general peace and the decision of the international controversies that may threaten it or disturb it, and formulates the following observations:

INTRODUCTION

The agency which it is a question of founding is, in principle, based on the experience of the League of Nations, with a certain number of modifications and amplifications which the authors of it have deemed fit to establish for its adaptation to the present circumstances. There is no doubt that the bases of the new peace organization demonstrate the good will that exists to perfect and strengthen international relations and that, therefore, as a whole they deserve firm support. But, if some of their details are considered, the said bases seem to mark rather a return to a system of permanent alliance of the Great Powers represented on the Council, without sufficient estimation of the rights and aspirations of the so-called medium and small nations. To justify this tendency the necessity is invoked of avoiding the dispersion of powers of the new institution, concentrating them in agencies smaller in their membership and more efficacious in remedying the defects that are attributed to the League of Nations. Such thesis may be defended, but it is not less true that it is most important to indicate at once, in the draft, the intention of concentrating all powers in a small number of nations with prejudice to the legitimate interests of the others. It is the fundamental defect that is found in the Dumbarton Oaks draft.

The new institution has not been conceived, as appears from the system as a whole, as a center of action for the restoration and regulation of peace as it results from the treaties that may be concluded, nor even as an agency of cooperation with the great countries at war with the Axis to formulate the conditions of such peace. As was done at Versailles, the United Nations reserve to themselves full liberty of action for the settlement of the questions to be decided at the end of the war and it is provided in the transitional arrangements that: "No provision of the statute shall prevent any action with respect to enemy States taken or authorized as a result of the present war by the Governments which have responsibility for taking or authorizing such action". That is to say, there is left to the new institution the task of defending and perpetuating the peace that is concluded, without any intervention in the negotiation thereof, and nothing is said regarding the possibility of revision of treaties or situations that may be found to be perilous or unjust. This was the fundamental criticism which was directed, with reason, against the work of the Versailles and which today must be repeated.

Without believing that it is feasible at present, in view of world conditions, to obtain the decisive intervention of the agency which is to be founded in the formulation of the peace, anything seems desirable that may permit it to exercise a moderating action which may prevent certain excesses and make possible supervision in the application of the great and humanitarian principles of the Atlantic Charter and the Moscow Declaration. This might contribute effectively to prevent again falling into notorious errors.

One of the severest censures passed upon the Geneva organization, so far as relates to the wording of the Covenant, consists in the breadth and vagueness of its terms and the lack of precision of its concepts. Some warmly defend this method, which permitted great flexibility in the functioning of the institution and the creation of a jurisprudence adequate to the changing circumstances of international life. Others attribute to this method the lack of strength in the League of Nations and its inefficiency. The controversy still continues. In the Dumbarton Oaks draft there has been adopted also, voluntarily it would appear, the flexible instead of the rigid type of instrument and many of the concepts are subject to subsequent interpretation and very broad variations of application. The method has advantages, because it permits of adaptation to different situations, but it also has the objection of not clarifying the scope of some of the most important rights and obligations of the members, which are thus left to the interpretation, possibly arbitrary, which may be given them by the agencies charged with applying the Statute.

One must call attention with satisfaction to the amplitude and importance which the draft gives to economic and social ideas in the life of the institution that is to be created, attributing their application to a body independent of the Security Council and the Secretariat General and dependent only on the Assembly. This would assure effective work in this matter. Nevertheless, it is observed that nothing is said in the draft concerning the Labor Organization, a matter which is the subject of study in these remarks. It is noted, likewise, that the draft does not mention certain questions whose decision was attributed to the Geneva institution or connected institutions, or considered as essential by a large share of world opinion. Such is the case, for example, with the very notable questions of the mandates, of the protection of dependent countries, or intellectual, sanitary, financial and monetary cooperation, of the narcotic drugs traffic, of the white slave trade. Some of these topics could, strictly speaking, be considered as included in the general enunciation of principles if these were broadly applied; but it would be desirable that at least the jurisdiction of the general organization on such subject matters be enunciated, in order to be able to continue to carry on with greater vigor the fecund labor accomplished at Geneva.

EXAMINATION OF THE PROPOSALS

The name of the international organization

There is adopted that of The United Nations (Las Naciones Unidas), trying thus to perpetuate in peace time the organization or league created for the war by the Declaration of Washington of January 1, 1942, signed by 27 States and enlarged afterward by the adherence of others. It may be said that in institutions of this kind the name is of secondary importance. It should, however, be recalled that international organizations exist principally by the consensus of world public opinion they obtain and that this is extremely sensitive to psychological factors. On this account, in trying to establish the union intended for the future and with a character that is assumed to be permanent, the name which perpetuates a war association does not appear very suitable for an organization of peace.

It may be presumed, aside from this, that the name proposed implies the elimination of the distinction which exists today between "United Nations" and "Associated Nations" and that it starts from the principle of equality among them. Even so, in virtue of known antecedents, the designation adopted does not favor the generalization and universality of the institution.

CHAPTER I

Purposes

In setting forth the purposes of the international organization a list of them is given which appears to be limitative. It should be observed that there may exist others not less important not included therein, even considering the breadth of the terms employed in the drafting of the chapter. It is not advisable to leave to the discretional interpretation of the members or of the authorized agencies such primary questions as those pointed out in the close of the introduction. In any case, any list which has the appearance of being limitative appears perilous, because of the impossibility of foreseeing all cases and the fear that restrictive applications may prevail.

CHAPTER II

Principles

The basic principle of the organization (No. 1) is that of the sovereign equality of all the peace loving States and, as appears from Chapter III, only these "should have the opportunity to be members" The concept of "peace loving States" frequently expressed by the leaders of the principal United Nations in their statements seems just and natural in time of war, but proves to be vague and unprecise once the war is concluded, since when peace is established no State will wish nor will be able to admit without stigma that it is not peace loving. Who will have to determine which are the peace loving States? The principal United Nations, acting according to their own criterion? Would the function be attributed to the General Assembly? The draft does not determine it, and this is one of its notable omissions. It will never be suitable for the natural hates and prejudices that have risen in the heat of the struggle to be projected indefinitely into the future and falsify or warp the foundations of a sincere international cooperation in the postwar period.

The ideal would be to achieve an institution of world-wide character, in which all the regularly recognized States have a right to occupy a place, provided that they are prepared to submit to the obligations and practice the principles which serve as a basis of that institution. Likewise, no State would have a right to isolate itself from the organized international community, by voluntary separation or expulsion. The aggressor States which provoked the present conflict would see recognized in principle their right to incorporate themselves in the institution when they have complied with the necessary conditions which might be laid down (complete disarmament, democratization of their institutions, demonstration of their good faith to cooperate with the community of nations, etc.) and at such time as the Assembly would determine. Politically, the best way of controlling dangerous States is precisely to include them in the membership of the organization charged with preservation of the peace and subject them as members thereof to all the necessary conditions of vigilance and prevention. Morally, any State excluded would be injured in its self-esteem and would never be ready to cooperate in good faith with the others. The example of Versailles and Geneva is conclusive in this respect. The majority of the Anglo-Saxon jurists who have studied the matter have counseled the benevolent solution.

Moreover, the principle contained in the final paragraph of this chapter, which would obligate the non-member States to obey the rules of the institution and carry out their obligations would be found contrary to legal postulates, at least as long as no disturbance of the peace should occur, and would occasion controversies very difficult to decide in the present state of international law. The difficulty would automatically be eliminated if the universality of the organization were recognized, even though certain States should be subjected to conditions for the exercise of their full right to belong to it.

In case the idea proposed in the draft should prevail, it would be necessary to attribute to the Assembly, expressly, the power to determine whether a State ought to be considered or not as comprehended within the preview of the Statute.

CHAPTER III

Members

It is not necessary to repeat here what has just been set forth concerning the constitution itself of the organization and the right to be a member thereof. It is necessary, on the other hand, to ask what will be understood as a State, for the effects of this title. The matter was warmly discussed at Versailles. by reason of the contraposition of different theses. Some maintained that only fully independent States could be represented, others that self-government was sufficient, as in the case of the British Dominions, and some that colonies or possessions having a certain degree of development or of administrative autonomy ought to be admitted, such as the Indian Empire. The Covenant of the League of Nations admitted that, besides that States, dominions or colonies expressly named in the annex, among which were some that were not entirely independent, "any State, Dominion or colony that governs itself freely" could be admitted, at the discretion of the Assembly.

The draft does not clarify nor determine the concept of a State, nor does it speak of dominions, colonies, etc. A certain number of semi-independent nations will certainly try to enter the institution, for which reason it is to be foreseen that the controversy will be renewed, in virtue of the political interests at stake.

The determination whether a nation is or is not a State in the sense of the draft, if the indeterminate form therein adopted subsists, must be the duty of the Assembly, expressly.

CHAPTER IV

Principal Bodies

In the enumeration of the principal bodies of the organization there was omitted, perhaps involuntarily, the Economic and Social Council, which proves to be an autonomous body, dependent only on the Assembly.

CHAPTER V

The General Assembly

Section A. In the General Assembly all the member States shall be represented, as in the League of Nations. The draft leaves it to the Statute of the organization to determine the number of representatives which each member may appoint in the Assembly. In the Versailles Covenant the said number was limited to a maximum of three; but, in reality, the majority of the delegations were composed of a more numerous representation, in virtue of the designation of substitutes, advisers, technicians, etc. The reason for the limitation of the number of representatives vested on the fear that large States might send numerous delegations and the small States could not do the same, which might wound their delicacy. As a matter of fact, three delegates were not enough to represent a member of the 6 general commissions, the special commissions and the numerous sub-commissions. The experience at Geneva demonstrated the inconsistency of the argument. It is the voting unit that is important whatever be the number of delegates. Thus, it would be preferable not to limit the number of representatives in the Assembly and leave the matter to the wish of each State, to the end that each one may give representation to the different parties or tendencies in the Government or the opposition and assure greater stability in the policy which the organization follows. The unity of the vote of each member is assured in paragraph C.

Section B. Functions and authority

No. 1. The Assembly would consider the general principles of cooperation for the maintenance of international peace and security, inclusive of the subject of armaments, and would discuss questions relating to international peace and security only when the Security Council or a member so requests, with the power of making recommendations. If questions were involved on which it should be necessary to take some action, the Assembly should not decide, according to the draft, but refer the matter to the Security Council. Neither could the Assembly on its own initiative issue recommendations on matters relative to peace or security which were under consideration by the Council. The Assembly would thus be converted into a mere consultative or advisory body for theoretical questions and general principles. It could only act through recommendations and never on its own initiative in important political matters and the Council would only have to begin hearing any of them to take them from the hands of the Assembly. All real powers would be concentrated in the Council, and the Assembly would come to be a practically useless body.

Consequently it may be deduced that the formula of the draft is excessive with respect to the Council and insufficient with respect to the Assembly, and that there would be need to seek a better balance between the two organs. Lack of confidence in the power of action of bodies of large membership is explicable and it is explicable that, in complicated questions of great political importance it is preferred to give greater power to the Security Council; but this tendency should not go so far as to deprive of effectiveness and of all action the representation of the whole group of the States to concentrate it in a small group of them. Among the attributions of the Assembly which may place hindrances in the way of the efficiency of the Security Council and the exclusive action of the Council, it would be necessary to find a compromise which would permit of equilibrium and which would reserve to the General Assembly at least the power of acting as a control on some decisions of the Council, either on its own initiative or by way of an appeal when any interested party should request it.

/

No. 2. This number of the draft establishes that the admission of new members of the institution shall be made by the Assembly, by a special 2/3 majority and recommendation of the Council. The Assembly is thus deprived of any initiative for admitting new members and, apparently, it would have left only the power to veto the proposal of a new member recommended by that body. The traditional and invariable rule in this kind of organization has been that the admission of members belongs exclusively to the deliberative body or General Assembly and this is natural and logical. This was done in the League of Nations. The suppression of the initiative of the Assembly and its subordination to the recommendation of the Security Council seems, consequently, an unnecessary or unsuitable mutiliation of the powers of the former.

No. 3. The draft provides for two degrees of penalties for members who do not respect the decisions of the organization: 1. the suspension of the exercise of the rights or privileges of members decreed by the Assembly by a 2/3 majority, with power of readmission by the Security Council, in case that the preventive or compulsive action of the organization has been applied to such members; and 2. expulsion by the General Assembly, with the recommendation of the Security Council, for persistent violation of the principles stipulated in the agreement. It is not determined whether the expulsion shall be definitive or whether, on the contrary, it can be decreed for a term or subject to submission to certain requisites or dispositions. The omission seems important.

The suspension of a member from the exercise of his rights and privileges is a penalty adequate for grave faults, such as those which give rise to the application of preventive measures or application of penalties, and it is natural that such a severe measure should pertain to the General Assembly. It appears, on the other hand, illogical and inconsistent with the powers of each body that the readmission of a member who has been guilty of faults of such significance can be made by the Security Council, without any intervention of the Assembly. The natural and proper thing would be that the Council should propose to the Assembly that it should repeal the measure that it has itself decreed and that the latter should decide. It ought not to be objected that this procedure might delay the readmission of an important member pending the meeting of the Assembly, because it would suffice to submit the contrary argument that in view of the possibility of a measure of such consequence there would be sufficient cause to convoke the Assembly extraordinarily.

The suspension having been admitted, for a longer or shorter period and with the corresponding penalties, and having established the conditions of possible restoration of rights to the suspended member, we do not see the object of the expulsion. When a State persistently violates its obligations as a member of the international organization, the logical thing is to penalize it most severely, economically, and if necessary, militarily, to oblige it to subject itself to the principles of the institution and suspend it from the exercise of its rights and privileges until it complies with the conditions that are imposed upon it. Definitive expulsion would be the permanent rejection of a State from membership in the International society: civil death with all its consequences. Expulsion for a term or conditional expulsion would add nothing to suspension. On the other hand, definitive expulsion is contrary to the ideal of universality of the institution.

No. 5. It will be the duty of the Assembly to prorate the expenses among the members and approve the budgets, but no principle is fixed that can serve as a basis for the pro-rating. This is one of the most delicate and debated questions in organizations of this kind. Different systems of distribution have been proposed: (a) according to the territory, to which the objection is made that there are countries with extensive territory and small population and wealth, for which reason that can not be taken as a basis; (b) population, against which it is argued likewise that there are countries of large population and small wealth and others of great wealth and small population; (c) a percentage of the budget of each country, with the objection that there are countries which have budgets swollen by special circumstances; (d) a percentage of the national income, which is found generally difficult to determine in practice; (e) the consideration of international trade, with the difficulty that certain countries, like Venezuela, have the figures of their trade inflated by peculiar circumstances of their economy, while others, such as Great Britain, have enormous sources of wealth--invisible receipts--which are independent of their trade. In general, no system can suffice in itself to determine an equitable distribution of the expenses; and in the League of Nations it was recognized that recourse had to be had to empirec methods which might approach as close as possible to equity, pro-rating by units calculated according to combined systems. This method seems the most just and most to be recommended. In any case, Venezuela could not accept, because of the peculiarities of her economy, distribution based on the area of the territory, on the amount of the budget nor on the figure of her foreign trade and would rather favor the distribution by units as applied at Geneva.

Section C. Voting. No. 2. When the Assembly is to take cognizance of controversies capable of disturbing the peace and affairs which concern certain States directly, the latter should not be admitted to vote in their respective cases, in virtue of the principle of natural law which does not permit being at the same time judge and party.

Section D. No. 1. Procedure. The General Assembly shall meet every year in ordinary sessions, and when the situation so requires, in extraordinary sessions. It is considered expedient, to avoid any tendency to obstruct the recourse of the members of the Assembly, in case the latter is not in session, to establish that it will be called into extraordinary sessions by the Secretary-General, whenever a minimum number of members, to be determined, should so request.

CHAPTER VI

Security Council

Some of the most important questions whose examination is required by the Dumbarton Oaks draft refer to the composition, powers, system of voting and procedure of the Security Council. Some of the problems discussed at the conferences-among them the most important one perhaps for the fate of the Union--have not been decided.

The Dumbarton Oaks draft suggests the following specific observations:

Section A. Composition. The number of all members is adopted of which 5 are permanent and not elective (Great Britain, United States of America, Union of Soviet Socialist Republics, China and in due time France- it is assumed that the recent recognition of the Government of the latter country will make it possible to incorporate it immediately in the group) and 6 non-permanent which would be elected by the General Assembly for the term of 2 years, with renewal 1/2 at a time, by a 2/3 majority of the votes of the Members present who vote. Of the first six elected members one-half only will carry out a mandate of one year, in order to permit the renewal of one-half. The members subject to election would not be reeligible immediately; but nothing is established concerning the term during which they can not be reelected. It seems to appear from the text that they would be reeligible after a period of two years.

The number of eleven members would be adequate to avoid the difficulty of a Council limited to the four or five Great Powers, and the difficulty of an excessive extension of that Body which may come to hinder or paralyze its action in moments of conflict. The Versailles Treaty provided for a Council of eight members (four permanent and four elective) and permitted the Council with the approval of the majority of the Assembly to increase its number and even to create new permanent members. The former was practiced in view of successive demands from different States, the number of members being raised first to eleven, then to fourteen and finally to sixteen. The second was practiced by giving Germany, after Locarno and on condition of her adherence to the League of Nations, a permanent place in the Council. The system was completed through the creation of a semi-permanent places for certain Powers which were called or considered as of medium size. The tendency to expansion was permanent in the composition of the council and its result was not always beneficial.

The rigid system proposed has advantages and disadvantages. It closes the door to certain claims, generally unjustified, of certain States to form part of the Council for reasons chiefly of prestige; but it also prevents the claiming of rights or positions which are not always circumstantial. It might discourage certain States and prevent the sincere return to the International Union of certain others which would not collaborate without having permanent representation.

It would not be prudent to stimulate circumstantial national claims and thereby convert the Council into a body incapable of making decisions, if we do not wish again to fall into the errors of Geneva. Neither is it useful to shut the door against the future. There would remain the remedy of amendments to the Statute, which is not always possible or advisable.

The example of Geneva shows that there will be difficulties for the distribution of representations. Two tendencies are well known in this matter. The one of universal distribution, if possible by lot, of the elective seats claimed by certain countries which believe that they find therein advantages and opportunities which they would not otherwise obtain and which their position and their strength denies to them; and the tendency toward distribution according to regions, races, religions, political and legal systems, cultural or linguistic traditions, etc. This was the principle in the League of Nations and experience proved its suitability. The difficulty lies in its application. It would be just to give at least three places to the Latin American countries, and to attribute others to the medium size and small Western and Eastern European States, to the members of the British Commonwealth, to the countries of the nascent Arabian Confederation and, possibly, to other regional systems. In another section of these observations we shall speak of these regional problems and their derivations. The only question to ask here, is; will there be a place for so many?

Section B. Authority and principal functions. No. 1. This section contains such a broad delegation of the Powers of the International Union to the Security Council that it appears practically inacceptable in its present form. It is useless to go over the arguments set forth concerning the matter. It is necessary to repeat, nevertheless, that such a delegation of powers can be admitted if there are attributed to the central organization, that is, the General Assembly, the necessary powers of control and if the member States are given the remedy of an appeal thereto; all the more because there will be represented in the Assembly all the members of the Council. For conflicts of a legal character or susceptible of being settled judicially, the respective observations of this report should be taken into account.

Section C. Voting. It must be noted that in this matter, two tendencies have manifested themselves. If the conclusions at Dumbarton Oaks were adopted, the Security Council, as has been said, would be the axis of the institution. Independently of the action of the General Assembly and the Council, the American and English drafts would apparently maintain the principle whereby any one of the permanent members could veto the application of penalties to an aggressor State, whenever it should be supported by two non-permanent members. One can understand the full value of the proposal, if one considers that the permanent member State could not vote if it is the one accused; and that it would suffice for the non-permanent members to obtain five votes of the six belonging to them in order to veto likewise any compulsive action. We know that the Russians did not admit one of the four or five Great Powers should be denied a vote even in case that it should be the possible aggressor. The Conference broke up, according to official communiques, without reaching complete agreement. "Izvestia," the official Soviet newspaper published, on the arrival of Mr. Churchill at Moscow, the Russian thesis in virtue of which the permanent members would have their hands free to do whatever they may wish without any possible control. The Anglo-American opposition to such thesis is more than justified.

Section D. Procedure. No. 1. It is provided that the Security Council should be organized in such a way that it would be able to function without interruption and that each State should be represented "permanently" at the seat of the Organization. The Council could hold meetings at other places, when in its judgment this would facilitate its work. There should be held also periodical sessions of the Security Council in which each member could be represented, if it should so desire, by a member of the Government or by some other special representative.

The idea does not seem clear and could give rise to doubts concerning the continuity of the meetings of the Council or their periodicity.

The experience of Geneva shows clearly that when grave questions were involved the Chiefs of Government, the Ministers of Foreign Relations or persons authorized to speak with full representation of their country, attended the Council. For other occasions the permanent delegates sufficed. It was easy to avoid engagements by sending to discuss certain matters men of second rank subject to instructions.

The difficulty reappears. The permanent Council is desirable, in principle, but it may offer the danger, characteristic of all political bodies, national or international, of creating or cultivating differences because of the necessity of justifying its existence. Between the two tendencies, the one of avoiding questions in order to engage oneself politically and the one of intervening in controversies with which other organizations are charged, the choice is difficult. The problem would be much less serious for America, if our own particular methods of pacific settlement of disputes were left untouched. The Council, permanent or occasional, will really have worth because of its powers and not because of its method of meeting.

No provision is made in the draft as to the number of representatives a member may have on the Security Council. The Geneva principle established one only. It would suffice to give him the substitutes necessary.

Nos. 4 and 5. It is provided that any member of the Organization especially interested in an affair, in the judgment of the Council, may be invited to participate in the discussion of it. Likewise, any member not represented in the Council, and which is a party to an international dispute, must be invited to participate in its discussion by the Security Council. The idea corresponds to known antecedents. It is necessary to amplify it in order to avoid its being within the exclusive powers of the Security Council to admit or not admit a State which it deems to have an interest in any question. There are two possibilities; that the State or States which believe themselves interested may abuse the good faith of the Council to avoid a preventive or enforcing action and complicate a question by their unjustified presence; or that the Council may pass over the rights of a State not represented on the Council. The experience of Geneva does not leave many illusions for the case when it is necessary to apply certain principles to Great Powers. In view of one or the other possibility, it would be proper to seek a guarantee of the rights of the medium-sized and small nations, without placing an obstacle in the way of the action of the Council in the general organization. The Council could not impose a decision without hearing the Parties concerned, without running the risk of disregarding imminent rights. The question consists in preventing the exercise of such rights from paralyzing the action of the Council. Two roads may be indicated: either that the State which alleges its interest in the dispute may appeal to the Assembly from the decision of the Council which refuses to hear it, with the inevitable consequence of delaying or halting the action of the Council; or that there be established, to prevent delays in matters which may be serious for international peace, the possibility that a special minority of two or three permanent or non-permanent members may oblige the Council to hear the reasons of the State not represented in its membership.

CHAPTER VII

INTERNATIONAL COURT OF JUSTICE

Nos. 1 and 2. In Chapter VII the draft considers that there should be an International Court of Justice which would be the principal judicial body of the Organization. The said Court should be constituted in accordance with a Statute which would form a part of the Statute of the Organization.

In this chapter the important question of knowing what will be the character of the jurisdiction of this Court is omitted. It would be expedient to establish definitively the obligatory jurisdiction of the Court for Conflicts of a legal order.

It has been said that the inclusion of this provision, the effect of which would be to impose on each member the obligation to resort to the Court to settle a legal controversy with any other member, would be an obstacle for the adherence of some countries. Nevertheless, the moment seems propitious, and it is not very probable that any United Nation will renounce being a member of the Organization to avoid this obligation, alleging that it is an infringement of its sovereignty, since in other aspects the Organization implies much greater limitations to the benefit of the community. At any rate, if this should occur, the compulsory clause could be attenuated by admitting, for example, its effectiveness after a fixed date. In any case, the Court itself should determine, when there is a disagreement, whether the conflict is of a legal or political nature.

No. 3. In this number the draft considers two possibilities, to wit: (a) that the Statute of the Court be the present one of the Permanent Court of International Justice which would continue in force with the modifications which it may be expedient to make in it; (b) a new Statute in the preparation of which the Statute of the said Court would serve as a basis.

The first solution is considered more practical and efficient.

The mechanism of the present Court is on the whole excellent, and it would be sufficient to make some changes in it such as reduction of the number of judges, generally considered as very high; granting it financial autonomy, and others.

Nos. 4 and 5. If universality is a desideratum for any institution of an international character, in none does it make itself felt with greater force than in the Permanent Court of Justice. This seems to be understood in the Dumbarton Oaks draft when it establishes that "the conditions on which States which are not members of the Organization could become parties in the Statute of the International Court of Justice, should be determined in each case by the General Assembly, according to recommendation of the Security Council".

It is considered that the prior recommendation of the Council as a prerequisite in this question might hinder new adherences to the Statute of the Court, for which reason it would be proper to establish that the General Assembly determine in each case the conditions on which States which are not members of the Organization could become parties to the Statute of the International Court of Justice.

CHAPTER VIII

Arrangements for the maintenance of international peace and security, and for the prevention and suppression of aggression

It is unnecessary to emphasize the importance of the topics which are discussed in this chapter. The preceding ones enunciate the general principles of the Organization and regulate its internal structure. Chapter VIII sets forth the rules of action of this organization in its most serious and important functions, that is, in the maintenance of international peace and security and the prevention and suppression of aggression.

The close connection that exists among the various recommendations of this chapter, as well as the propriety and the necessity of obtaining a unitary and integral view of its problems, impels us to make a general commentary, which will be supplemented with observations referring to each of the points which merit special consideration.

Studied as a whole, the chapter inspires the following reflections:

(1) The essential powers of the international organization, in respect of the settlement of international disputes are concentrated in the Security Council, that is, in a political instrument whose action is bound to be strongly influenced, whatever the system of voting that may be followed, by the will and the interests of the States which are permanent members thereof.

(2) The powers of the Council are not only broad from the point of view of the almost exclusive character of its competence but also from the point of view of the discretional use which it could make of its attributions, since it would be implicitly empowered to decide, in each case, whether or not a controversy exists and whether or not the controversy requires the intervention of the organization.

(3) The ignorance which still exists as to the Council's system of voting gives a provisional and aleatory character to any judgment of the present system of solving conflicts. In any case, the principle supported in the draft, that the Council is the principal organ for such solution, raises the question, as important as it is difficult, that if unanimity is required the agency may be deprived of efficiency, and if a simple majority is required its decisions would be deprived of moral authority and of effective material assistance.

(4) The powers of the Council are in this matter difficult to limit in a general manner in favor of the Assembly, which, by reason of the number of its component parts, is less capable of functioning decisively and actively, and in which, moreover, the political contrapositions which have shown themselves in the Council may be sharply defined.

(5) The powers of the Council are, on the contrary, with respect to the solution of controversies, more susceptible of limitation in favor of the competence of the International Court, as an organ hearing those controversies according to criteria of law and equity. This fact is more evident if it is considered that an increase of the powers of the Assembly as against the powers of the Council may appear as an increase of the relative power of the small and medium Powers, that is, of the Powers which will have less responsibility in the maintenance of peace, while an increase of the attributions of the Court as against those of the Council would appear as a strengthening of the principle of law and of the sentiment of international solidarity.

It is opportune to point out that the ideal criterion would be to entrust the solution of international controversies to the International Court or an independent arbitration agency, and entrust to the Council the mission of executing such decisions and of imposing on any States in conflict the intervention of the agency mentioned. However, we are not unaware of the difficulties which the above-mentioned ideal solution might present in the present international situation. In any case the following general orientations are traced:

First: The intervention of the Security Council and of the International Court of Justice should be excluded in cases in which other pacific means of solution of conflicts are in process, whether they derive from particular agreements signed by the States, or whether they derive from the existence of regional groups freely concerted by them.

Second: All conflicts of a legal nature should be submitted obligatorily to the International Court of Justice, when the pacific means in reference fail, attributing likewise to the Court, in case of disagreement, the power of determining the nature of the conflict.

Third: The greatest possible intervention of the Court of International Justice in the other conflicts should be established, that is, in the so-called political conflicts, by means of the issuance of opinions which may be requested by the Council, by the Assembly, or by any individual States on those points which the Court itself deems susceptible of a legal opinion.

Fourth: The necessary and compulsory action of the Security Council should be favored for the execution of the decisions of the Court and others that, according to the Statute, may be considered as an expression of the will of the community, as well as to oblige States to respect the intervention of the international organs.

In accordance with such general ideas, we enter into the analysis of the sections and paragraphs of the chapter, in the understanding that, in view of the essential connection among all of them and the excessive vagueness of many of their expressions, they must be understood as being supplemented and interpreted by what is said above.

Section A

No 1. This paragraph raises the question, which is repeated in some of the following ones, of whether an excessive inquisitorial power of the Council may become a means of activating and inflaming disputes rather than a system for guaranteeing peace. In this sense, without disregarding the accepted principle on which the precept is based, it is deemed better to establish the authority of the Council to investigate those disputes in which the ordinary pacific means have failed and in which the maintenance of international peace and security is imperiled. In any case, the reasonable interpretation of those principles would grant more than sufficient powers to the Council in order to exercise its attributions effectively.

No. 3. In conformity with what has been expressed in the foregoing number, the last sentence of this number seems unnecessary, since it is found more prudent to determine that the Council should refrain from hearing cases in which proceedings of pacific settlement are in progress.

No. 4. In this paragraph a distinction should be drawn between legal controversies, which the States would bind themselves to refer to the International Court, and the other disputes which the States would refer to the Security Council, with the express and important reservation that, in case of failure to agree, the Court should determine the nature of the dispute.

No. 5. In harmony with what was said in Nos. 1 and 3, it would seem expedient to indicate that the intervention of the Council would take place after the ordinary means of settlement had failed.

No. 6. In harmony with what was said in No. 4, "justiciable" disputes should be referred in all cases to the International Court of Justice. Likewise, the Assembly and any State which is a member of the community of nations should also have the right to obtain the opinion of the Court and, in case of disagreement as to the nature of a conflict or on the competence of the Court to give an opinion, the Court would have to be the only organ adequate to determine its competence.

No. 7. This paragraph does not give rise to any observation if, as one may believe, the corresponding international authority, that is, International Court, Assembly or Council, is the agency authorized to determine which questions are attributed by international law to the domestic jurisdiction of a State. In any case, in view of the importance of the problem, an amendment seems necessary to make such interpretation evident.

Section B

No. 1. This number outlines the Council's rules of action in case of failure in the search for a solution of a controversy which constitutes a threat to the maintenance of international peace and security. They make plain once more the optional and discretional character of the Council's acts. In this sense, it would appear opportune to complete them by attributing to the Council the duty of executing the decisions of the International Court and of imposing its jurisdiction on the States which refuse to respect it. Likewise it seems that the Council should have the mission of imposing its own intervention and those decisions, whether its own or those of the Assembly, which have compulsory legal force, even though the importance and opportuneness of this mission are conditioned largely by the structure and functions which, definitively, are given to the said units of the organization.

No. 3. It is deemed that the Council should have authority to determine what diplomatic, economic or other measures, not including the use of armed force, would be employed to make its decisions effective, and to request the members of the organization to apply such measures. These might include total or partial interruption of railway, maritime air, postal, telegraphic, radiotelegraphic and other communications, and the rupture of diplomatic and economic relations. "Financial" measures might be added, together with the diplomatic and economic measures. Moreover, the established list is complete and includes all that can be desired in that order of ideas.

No. 4. In case the measures indicated should be inadequate or insufficient, the Council should have authority to adopt any others it might deem necessary to maintain or restore international peace and security, that is, the use of force. The said action might consist in demonstrations, blockades, and other operations by air, naval and land forces of members of the organization.

The burden that might result for the members of the organization in virtue of this stipulation constitutes a serious and delicate question, especially for the small countries which ordinarily have a very limited military capacity. This circumstance, as well as others which might also be noted, should be specially taken into consideration.

No. 5. For the purposes indicated in the foregoing paragraph there is established for the members of the organization the obligation of placing at the disposal of the Security Council, when the latter so requests and in conformity with a general agreement or special agreements concluded between them, the armed forces, the facilities and the aid necessary to maintain international peace and security. By the said agreement, or agreements, arrangements would be made for the amount and kind of forces, the nature of the facilities and the aid that they should furnish. The general agreement or the special agreements would be concluded as soon as possible and in each case would be subject to the approval of the Security Council and to ratification by the signatory States according to their constitutional procedure.

In the agreements it should be determined as approximately as possible what kind of military collaboration could be required, in order that the State concerned might know the extent of its obligations. In the said agreements, according to our understanding, there would be determined the way in which the expenses of the military operations would be distributed.

The conclusion of special agreements, subject to legislative action in each case, might constitute a serious obstacle to the efficiency of the measures decreed by the Security Council. Thus, the refusal of some States to ratify such agreements or the delays that might occur on that account, would detain rapid and timely repressive action. For this reason an agreement of a general nature would be preferable, annexed to the Pact, subject of course to the constitutional provisions of the interested States, but providing once and for all for the military collaboration to which they are obligated. This would not prevent, however, the conclusion of special agreements not subject to legislative ratification and inspired with the same spirit.

No. 6. There is established another obligation on the members of the organization which would maintain contingents of national air forces, immediately available, for use in compulsive international actions. The size and degree of preparation of said contingents and the plans for the actions would be determined by the Security Council with the aid of a Staff Committee and according to what has been established in the agreement or special agreements referred to in No. 5 above. With respect to the military contribution, a criterion could contribute, among other elements and for obvious reasons, geographical proximity, the legitimate interest and the military capacity of each State.

No. 7. In this number it is established that the action which is required to make effective the decisions made by the Security Council for the purpose of maintaining international peace and security should be a joint action on the part of all members of the organization or of certain of them, as the Security Council shall determine. This should be done by the members of the organization by their own action and "through action on the part of the competent special organizations and entities of which they may be members."

The meaning of the last part of this number needs to be clarified.

No. 8. The plans for applying the armed force should be made by the Security Council with the aid of the Staff Committee referred to in Paragraph 9 below.

In order to give the Security Council an advisory body on military questions, which may at the same time command the forces placed at its disposal and assume the strategic direction of operations, there has been created the Staff Committee, whose duties, and attributions are determined in the following number.

No. 9. The duties of the Staff Committee would consist, then, in advising and aiding the Security Council in all questions relative to military needs for the maintenance of international peace and security, in the employment and command of the forces placed at its disposal, the regulation of armament and possible disarmament. This Committee being subject to the Security Council, it should be responsible for the strategic direction of any armed forces placed at the disposal of the Council. The Committee should be composed of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Likewise it should invite any member of the organization which is not permanently represented on it to join the Committee when the efficient discharge of the latter's duties requires that such State participate in its labors. Questions concerning the command of the forces should be decided subsequently.

Aside from the fact that objection might be made to the limited membership of the General Staff, confined to the permanent members of the Security Council, it is considered indispensable that representation be given with the right to a voice on the said Committee to any State which lends its military collaboration.

No. 2. The last paragraph of the section under consideration establishes that any State, whether or not a member of the organization, which should have special economic problems in the way of carrying out the measures on which the Security Council shall have decided, should have the right to consult the Security Council with respect to the solution of said problems.

In the case raised by this provision, it is thought necessary not only that the State concerned have the right of consultation, but that also the Security Council should adopt measures intended to solve the situation of the said State.

Section C. Regional arrangements

No. 1. In the matter of regional organizations the draft undoubtedly departs from the timid formula of the Covenant of the League of Nations, which, in its article 21, declared that international agreements, such as arbitration treaties and regional "ententes", and likewise, the Monroe Doctrine, which assured the maintenance of peace, were not considered incompatible with any of the provisions of the Covenant. Thus, it was barely recognized that commitments of that type should continue in force among the members of the League because they did not belong to the group of those whose automatic abrogation was provided for in article 20 of the Covenant, but there was no encouragement of the function which the partial groupings--regional or continental--are called upon to discharge in order to settle certain affairs peculiar to them and unify the different national groups in order to consolidate the moral and material action of the whole in support of the ideals supported by the world organization. The principle of the admission of the regional organizations was not then brought up in precise form nor was its field of application delimited, an error which could now be remedied.

On the other hand, the draft indicates that none of the provisions of the Statute would prevent the existence of regional agreements or systems whose activity is compatible with the aims and purposes of the general organization, and intended for hearing problems relating to international peace and security which lend themselves to regional solutions. In this way are recognized the de facto situations created by groups of countries which, in virtue of natural bonds of solidarity and common interests, or moved by other contingent causes, try to make their action uniform in the field of international relations and facilitate the settlement of their own disputes in the sphere of this partial organization.

The Security Council should "encourage" as is said in the draft itself, the settlement of local disputes through these regional institutions, either at the initiative of the interested States or because they are referred to them by the Council itself. The proposal is too vague to be received without objections. It is not known for sure how far the power of the Council would extend in such cases, that is, whether its intervention would be limited to a simple recommendation and to lending the necessary support to the regional action for the settlement of the conflict in question, refraining from any direct action in the matter while the regional proceedings are developing, or whether it could, under the generic power to "encourage", which would not bind it necessarily to inhibition, choose to act immediately alleging that the question in dispute requires the indispensable, direct intervention of the Council. It is understood that in the draft the details of the structure of the regional groups or systems within the general organization are not determined, but it is necessary to insist on some fundamental aspects of this matter, in order to obtain the good functioning of the regional units within the world system. There must be considered the difficulties inherent in the coordination of the statute and mechanism of the partial organizations with those of the general organization, and try to avoid the conflicts of jurisdiction which would threaten the stability and authority of the whole system. Therefore emphasis must be placed on what has been said before, namely: that when it is a question of local affairs the Security Council should refrain from any intervention, if any proceedings of regional settlement are in progress, and limit itself to fulfilling the function of an agency of final instance, if the method followed proves to be unsuited to solving the dispute.

No. 2. It is established that the Security Council should make use of the regional organizations to exercise enforcing actions under its authority, that is, to put in force any measure, if this should be advisable, but the necessity of the authorization of the Council is required for any action or measure which may be based on the regional agreements.

Here it is no longer a question of the functioning of pacific methods, but of the application of penalties of a military, economic or other character. The necessity is well understood of establishing close cooperation between the general system and the regional organizations, in order to prevent conflicts and facilitate the practical success of these organizations. The necessity is also recognized of subordinating the action of the regional groups to the authority of the system, to prevent the former from compromising the stability of the latter, instead of being integrated into it and strengthening it. But the proposal which is being examined, within the general lines of the draft, which tend to give excessive power to the Security Council, does not fail to present difficulties for any regime which, like the inter-American, finds itself in a position to study and adopt measures to preserve or reestablish the regional or continental peace. As a matter of fact the contrary interest and the lack of support of a

Great Power in the membership of the Council would suffice for the application of those measures to fail. The question would then fall automatically within the sphere of action of the general system, without the fulfilment of the already mentioned condition of incapacity of the regional group to solve the conflict and prevent any threat to peace. Such a state of things would shatter the moral authority of the regional organization, would cause its weakening and gradual dissolution, or at least the lessening of its spirit of cooperation in favor of the world organization.

Moreover, the prior authorization of the Council might cause delays which possibly would neutralize the effects of measures of a peremptory character. To avoid this objection, it would be advisable to consider the possible application of them subject to revision by the Council.

It is true, moreover, that absolute independence of the regional organizations in the application of penalties of a local character would entail great difficulties and might give rise to opposition between continents and regions, or give rise to some dangerous policy of continental isolation. The ambition for world preponderance and dominion or the theory of balance of power between different regional organizations would again arise. Accordingly, the problem must be studied carefully, and perhaps would be solved by the establishment of a special method of voting in the Council when the authorization for any regional enforcement action is to be granted. A like method could be applied if it were a question of the revision of peremptory methods local in execution. The distribution of representations in the elective places, of which we have spoken above, has a close connection with the question which is proposed. Furthermore, there should be taken into account, in spite of the difficulties presented by its application, the thesis whereby the small States which are participants in the Council are to represent adequately the different regions of the world, since this, combined with the special rules for deciding on the matter of which we have been speaking, would lessen the objections noted and would offer, perhaps, the best guarantees that could be furnished in this field to the regional organizations.

CHAPTER IX

Arrangements for international cooperation in the solution of economic and social problems

Section A. Purpose and Relationships

No. 2. The draft, in this Chapter, recognizes the necessity of improving the economic, social and spiritual conditions in the life of the peoples as a requisite for maintaining relations of peace and friendship among them, and entrusts the discharge of the corresponding function to the General Assembly, in the first place, and then to an Economic and Social Council subject to its authority. It also provides for the establishment of relations between the Organization and each of the various specialized entities of an economic, social or other character, in accordance with the agreements to be concluded for the purpose by the Economic and Social Council and the competent authorities of the entity in question, subject to the approval of the General Assembly. Moreover, it is established that the entities referred to would have in their respective fields the responsibility which their statutes stipulate.

As may be noted, no distinction is made between the organizations already in existence and those which may be created to consolidate the action of the Economic and Social Council in order to obtain the purposes which would be entrusted to it. It seems, then, that the International Labor Office would establish relations with the former in the manner contemplated in the draft. It does not say what would be the directive lines which would be followed to determine these relations, and in cases like the one indicated, the matter is not without importance. Well known to all is the work performed by the I.L.O. and obvious also is the confidence which its activity inspires throughout the world. Proof of it is the recent Philadelphia Charter, which confers ample powers on the said organization. Under such circumstances it is deemed proper to study the possibility of determining the relationships between the said Economic and Social Council and the various specialized organizations. Would the latter keep complete or merely some autonomy of functioning, confining itself to reporting periodically to the Economic and Social Council on its activities or coordinating them with those of the former? Would there exist several categories among these entities or organizations from the point of view of their autonomy, or would they be subordinated entirely to the economic and Social Council, summing them up in it? What would be the legal status of the Philadelphia decisions on the International Labor Office in view of the competition between it and the Economic and Social Council? The decision of all these questions and of many others should at least be indicated in advance, to facilitate subsequent agreements and the establishment of a real authority in the matter.

Section B. Composition and Voting

It would pertain to the General Assembly to elect for a three year term the 18 States which are to have representation on the Economic and Social Council and each of them would have one representative with the right to vote. The decisions would be made by a simple majority of the representatives present and voting.

No criterion whatever is established for choosing which States would be members of the Council, and thus there will arise the struggle between the two tendencies discussed in Chapter VI. Would the system of universal distribution by lot be adopted, or would the choice be distribution by regions, races, religions, political and legal regimes, cultural or linguistic traditions? Would both systems be combined? In any case the problem will arise when the moment of the election comes and it would be expedient to hasten the solution of it.

Moreover, the large number of members of the Economic and Social Council and their temporary character would not always guarantee the direct or indirect representation of a State in a matter which concerns or interests it in any manner. Accordingly, it should be admitted that the States interested in a question will be entitled to a seat in the Council with a vote for the consideration of that question. In this way any State would be protected against a decision reached behind its back, and the determination of the criterion for the election of the members of the said Council would be facilitated.

To obtain the said participation it would be decided that the State which believes itself interested should address the Council and may appeal to the Assembly in case of a refusal, with the consequent delay or stoppage; or that the favorable vote of a minority of the Council is sufficient to admit the petition of the respective State.

Section D. Organization and Procedure

No. 1. The Economic and Social Council would establish one economic and one social committee and the others that might be necessary, all constituted by experts. It would also have a Secretariat with a permanent corps of employees.

Latitude is left in the draft with respect to the number of members and composition of the committees to be created, but the indispensable condition of competence is required, as is natural. Notwithstanding, it should be indicated as desirable that there be stated expressly the right of any State that is a member of the organization to participate in the work of the said committees, in conformity with the tradition practiced with good results at Geneva.

No. 2. Provision is also made in the draft for the conclusion of agreements in order that the specialized organizations or entities may participate "without a vote" in the deliberations of the Economic and Social Council and in those of the committees that it may establish.

This proposal appears to have a direct relation with what has already been said concerning the determination of the directing lines of the relations between the indicated entities and the Economic and Social Council. We have the impression that the formula tends to preserve the autonomy of the former, while recommending their participation in the activities of the Council on a merely consultative basis. In this way, they would perform merely the function of advisers in the subjects within their competence. And one may ask whether such system would be sufficient in order that the Council may discharge its duties as a coordinator as contemplated in the Statute, and whether their apparent autonomy would be compatible with the evident subordination which the exercise of those attributions would imply. For this reason it is well to insist on the observations formulated with respect to No. 2 of Section A of the Chapter, to the end that there may be established in the final draft a clear and precise regime which may permit the best success of the Agency in the economic and social field, through a real centralization of the joint efforts of the entities in question and their committees, without forgetting of course the role which regionalism is to play in the exercise of technical attributions. In this way, the subordination of the technical agencies to the international political institution would guarantee the unity of their functioning and the coordination of their activities.

CHAPTER X

The Secretariat

No. 1. The Secretariat would be composed of the Secretary General and such personnel as may be necessary. The Secretary General would be the principal administrative official of the Organization and he would be elected by the General Assembly on the recommendation of the Security Council. The term and the conditions of the mandate are left for further specification in the Statute.

Undoubtedly the determination of the personnel of the Secretariat is a matter to be prescribed in the regulations, but perhaps attention should be called to the necessity of admitting at once the existence of an Assistant Secretary or Secretaries, in virtue of the important function which they would have to fulfil and in order not to leave the matter to the regulations. It may be recalled, in this connection, that article 6 of the Covenant of the League of Nations made special mention of them. Moreover, the question of the term of the Secretary's mandate could be considered with full clarity. In the proposed plan it appears to be presumed that a period will be determined for its exercise, thus departing from the antecedent of the League of Nations, the statute of which did not establish any term whatever.

With respect to the manner of the election of the Secretary, it is to be observed that the choice of a person not recommended by the Security Council would be entirely without efficacy, since the recommendation of the latter is required in order for the Assembly to exercise the function which is entrusted to it. In this way, the power that is granted to the Assembly is very relative, and it would be almost equivalent in certain cases to the election of the Secretary by the Security Council. In the Covenant of the League of Nations the appointment belonged to the Council with the approval of the majority of the Assembly, with exception of the First Secretary, who was designated in the respective annex. The idea of the election of the Secretary, by the Assembly, is received with satisfaction but for the reason noted perhaps the formation of a group of three candidates by the Council would be expeditious.

No. 3. It has already been noted in this report that a better balance must be sought between the powers entrusted to the Council and the very few that are left to the Assembly, and we have combatted the possibility that this may result in a practically dead organization, without further power than that of enunciating general principles and recommendations without any real value. Accordingly, we would see with pleasure, provided that the powers of the Assembly were amplified, that the right of the Secretary General to conduct any matter which in his opinion threatened international peace and security, might be exercised before the Council or before the Assembly.

CHAPTER XI

Amendments

The draft proposes that amendments would enter into force "with respect to all members of the Organization", if adopted by the General Assembly by a vote of 2/3 of its members and ratified in accordance with their constitutional procedure by the permanent members of the Security Council and by a majority of the other members of the Organization.

The system of the Covenant of the League of Nations required, first, the unanimity of the member States present at the respective meeting of the Assembly, and afterward the ratification of those represented in the Council. And furthermore it gave every member of the League liberty not to accept the amendments, in which case it ceased to be a member.

The idea of establishing the force of the amendments for all members of the Organization, after fulfilment of the conditions which are expressed by the draft discussed at Dumbarton Oaks improves the principle of the Covenant of the League of

Nations, and is in conformity with the idea of universality supported in this report; but due to the fact that neither the expulsion nor the withdrawal of members is advocated, it is considered indispensable to modify the conditions required for the amendments to come into force, so that the dissident minority may be small and that any State may be better guaranteed against amendments that it deems unacceptable.

Perhaps ratification in advance, not by a simple majority of the members of the Organization but by a 2/3 majority would be preferable. To admit this it is sufficient to think that the veto of one of the permanent members of the Council, at the moment of the ratification, in spite of the favorable vote of the other States members of the Organization, would be sufficient to quash any amendment adopted by the Assembly.

CHAPTER XII

Transitional Arrangements

No. 1. The duty which is imposed upon the four Powers which signed the Declaration of Moscow October 30, 1943 to consult with each other and to consult also with other members of the Organization, whenever the occasion arises, in order to take in the name of the latter the joint action necessary to maintain international peace and security, pending the coming into force of the special agreement or agreements to which paragraph 5, section B of chapter VIII refers, should conform with the result of the observations formulated on the said paragraph. It is obvious that if it were possible to conclude general agreements as an annex to the Statute it would be unnecessary to establish the above-mentioned duty since the Covenant would begin to function in its entirety without waiting for new agreements.

No. 2. With respect to this point of the draft, there should be repeated what was said in the introduction to these observations. There is defended therein the thesis that the provisions of the Statute ought not to prevent any action against enemy States, carried out or authorized as a result of the present war by the Governments which may have the responsibility for proceeding thus. It is the reservation of the Great Powers which have supported the burden of the conflict in order to keep their freedom of action, and the door closed to any possible moderating intervention of the organization which is to be created in the establishment of the peace and the liquidation of the war.

The role of this organization would appear to be to maintain the peace dicated by the Great Powers without taking into account the voice of the small States, also interested in the establishment of peace and in the reconstruction of international society for the postwar period. We do not disregard the responsibility which weighs upon the men of those States, but the subject to be considered is universal and not only the great nations but the medium and small nations have suffered the consequences of the conflict and have the right to make themselves heard in the peace settlement. Their voice, far from constituting an obstacle for the decision of the vital political questions of the Great Powers, would be a guarantee of justice, equity, and equilibrium, would strengthen the reign of law and would avoid impositions of force. In the intervention of the organization which it is attempted to create the tragic experience of Versailles could doubtless be utilized and its result would not then be merely another "diktat". The conditions imposed upon the transgressor or transgressors of international order must be imposed by means of an appropriate institution; and the penalty applied to them in the name of a clear majority of the community ought to be a firm basis for the triumph of the ideal of justice in the field of inter-State relations. It would be the most noble and most clever attitude that the Great Powers could adopt and the best proof of their good will and preparedness to create and maintain stable peace conditions in behalf of the generations to come.

Additional Observations

In the final note of the draft it is said that in addition to the question of the voting procedure in the Security Council referred to in chapter VI, there are others which are still under consideration. It is probable that among them are the following, which deserve the express attention of the Statute, namely:

a) The principles which will guide the administration of the colonies and the protectorates, the possible change of sovereignty of the said colonies and protectorates according to their geographic position and by the free will of their inhabitants, or the conditions necessary in order to recognize them eventually as member States in the community of nations, with a right to their own government and the other inherent prerogatives, must be determined in the said Statute. Any omission in this particular would constitute a step backward in comparison with the provisions of the Covenant of the League of Nations.

b) Good faith in the field of inter-state relations is essential to develop international cooperation and solidarity in an atmosphere of reciprocal confidence and loyalty. As a consequence of that good faith international treaties and agreements must have the character of public covenants, for the effect of which provision should be made for the recognition of such publicity, with obligatory character, in the text of the Statute. The registration of any treaty in the Secretariat of the Organization could be required as a formal requisite in order to give an obligatory character to such treaties and agreements. An analogous stipulation is found in article 18 of the Covenant of the League of Nations.

c) The rules for the revision of treaties should also have a place in the Statute. At least the general principle of the revision should be admitted, as was done in article 19 of the Covenant of the League of Nations, but making it subject to the change of circumstances to be determined by the judicial authority of the Organization. The recommendations and procedures advisable in such delicate matters for the maintenance of peace ought to be studied carefully with a view to a solution that may accord or harmonize justice with the stability and permanence which international agreements should have.

d) The seat of the future organization also constitutes a subject of singular importance. The designation of Geneva, in spite of the fact that certain objections, especially of a psychological nature, may be alleged against it, would present undoubted advantages of utilization of what already exists. The choice of one of the Great Power capitals would not be suitable because of the susceptibilities it would arouse and because of the possibility of certain influences on the activities of the institution.

e) The question of the official languages should also be included in the Statute. In the League of Nations only French and English were official. Now, the Soviet Union will perhaps demand Russian as another official language, and possibly Brazil and Portugal will have the same aspiration with respect to Portuguese. In such cases, a large number of countries would have the right to ask that Spanish also be accepted as one of the languages of the institution. Without counting China, it would be preferable to approach the problem at once and frankly. The result of the discussions and the experience at Geneva was that English and French were enough. The great majority of the European Continental representatives express themselves in French, as well as the majority of the Latin-Americans. The debates will be never ending if translation is required into more than two languages.

f) There should be precisely stipulated in the Statute the abrogation of prior obligations incompatible with this one, and there should be affirmed also the obligation of all member States not to contract undertakings which derogate from those contained in the said Statute.

Caracas, October 31, 1944.

SUMMARY OF THE MOST IMPORTANT OBSERVATIONS MADE BY THE GOVERNMENT OF VENEZUELA ON THE DUMBARTON OAKS PROPOSALS

1. That there be included among the purposes enumerated, the promotion of justice and good faith in international relationships. (Chapter I.)

2. That there be included the promotion of respect for the rights of man and for his fundamental freedoms. (Chapter I, No. 3.)

3. That an Economic and Social Council be included among the principal bodies appertaining to the Organizations. (Chapter IV.)

4. That there be granted to the Assembly the power to reinstate any member suspended in its rights and prerogatives. Said power would be exercised by the Council when the Assembly is not in session. In such case the decision of the Council would be submitted to the Assembly for ratification. (Chapter V, Section B, No. 3.)

5. That the clause relating to expulsion of members be stricken out, such expulsion being contrary to the idea of universality of the Organization, which ideal should be pursued as the maximum aspiration. (Chapter V, Section B. No. 3.)

6. That it be established that the Assembly shall be convened to special sessions by the Secretary General on request of a given number of members or whenever the Council shall so require it. (Chapter V, Section D, No. 1.)

7. That in view of the difficulty of laying down rules for the election of non-permanent members of the Council, the Proposals confine themselves to indicating the advisability of affording adequate representation on it to Latin America. (Chapter VI, Section A.)

8. That it be provided that a State or States with seats on the Council, when parties to a controversy, shall be entitled to a hearing only. (Chapter VI, Section C.)

9. That the possibility be provided for that the favorable vote of a special minority of members, whether permanent or otherwise, of the Council be sufficient to enable a State interested in a question to take part in the discussion thereof but without the right to vote. (Chapter VI, Section D, No. 4.)

10. That it be specifically stipulated that any State not represented in the Council and a party to a controversy, shall be entitled to participate in the discussion relating thereto of the Council but without the right to vote. (Chapter VI, Section D, No. 5.)

11. That it be resolved that the Statute of the International Court of Justice be based on that of the Permanent Court of the Hague, with such modifications as may be expedient, among which the more fundamental are set out below:

a) That obligatory jurisdiction be conferred upon the International Court of Justice, in all controversies of a legal nature, in case of the failure of other and peaceful methods of settling the conflict. (Chapter VII, No. 3.)

b) That there be granted to the said Court the power to decide as to its own competence. (Chapter VII, No. 5.)

12. That it be suggested that the statute of the Court determine under what conditions states not members of the Organization would come within the jurisdiction of the Court, and when they would be entitled to resort to it.

13. That it be provided that the right to obtain an opinion from the Court in certain cases should also appertain to the Assembly, to the international organizations and to the States individually. (Chapter VIII, Section A, No. 6.)

14. That the endeavor be made to have the Security Council see to the fulfillment of the decisions handed down by the Court, and that they use such means to that end as they may deem expedient. (Chapter VIII, Section A, No. 6.)

15. That it be stipulated that determination as to whether the matter dealt with comes within the domestic jurisdiction of the State or otherwise, appertains to the Court or to the Council, according to the nature of the conflict. (Chapter VIII, Section A, No. 7.)

16. That every State rendering military cooperation be granted representation on the Military Staff Committee with the right to be heard; and representation with the right to vote, in the same case, on the regional subcommittees of said Committee provided for by paragraph 2 of Section D of Chapter VI. (Chapter VIII, Section B, No. 9.)

17. That it be stipulated that when regional matters

have to be dealt with the Security Council should abstain from any direct intervention therein, if any proceeding for regional settlement be in process of transaction; and that it should act directly only when the regional machinery shall have failed and such failure results in a menace to international peace and security. (Chapter VIII, Section C, No. 1.)

18. That it be resolved that any State particularly interested in a matter submitted to the Economic and Social Council for consideration shall be entitled to attend the discussion thereof with the right to speak. (Chapter IX, Section B.)

19. That registration of all treaties in the Secretariat of the Organization be required as a formal condition for making international agreements obligatory.

20. That it be established that the charter of the Organization constitutes the supreme law of the international community and that it be expressly stipulated that any prior obligations incompatible with said statute be abrogated, as well as a commitment on the part of all the member States not to contract any further obligations in conflict with the stipulations of same.

21. That the establishment of a juridical regime adequate for the territory where the International Organization will be called upon to function be contemplated.

BASES FOR THE ORGANIZATION OF AN INTERNATIONAL COURT OF JUSTICE, PRESENTED BY THE GOVERNMENT OF VENEZUELA

I. General Problems.

1. The court should be the essential integrating element of the international organization.

2. The members of the international organization would, for all purposes, be members of the court. The States which are not members of the organization would also not be members of the court, in that they would not participate in its organization or in the designation of its membership; provided, however, that they should have some relation with the said entity, so as to submit themselves to, or fall under, its jurisdiction.

3. The statute of the court should be substantially the same as that of the permanent international court of justice, with the changes required by the new international conditions.

4. The statute of the court should be approved and ratified together with the general agreement for the establishment of the organization, and as an instrument complementary to it.

5. There should be only one court, and its decision should not be subject to appeal. This would not prevent recourse to review, just as was the case with the permanent international court of justice.

6. Notwithstanding the secondary nature of these problems, it seems desirable to recommend that the court have its seat in a territory other than that where the political bodies of the organization meet regularly--the seat might continue to be at The Hague. The name adopted at Dumbarton Oaks seems to be adequate: Court or Tribunal of International Justice.

II. Problems Relative to the Organization and Procedure of the Court.

1. It seems desirable to retain the same term of office of the judges (nine years), but provision should be made for their partial replacement every three years, that is, that every three years three judges should be elected.

2. It seems desirable, further, to recommend a procedure of election based on the following plan:

1) The government of each member state of the organization shall appoint two representatives. The govern-

ments should be urged to appoint jurists with technical qualifications and recognized reputations, and, in making such appointments, to hear the opinion of the law schools, of the highest courts, and, in general, of the representative organizations of the national juridic science.

2) The representatives appointed by the governments shall constitute an international electoral college; their term of office shall be nine years; and they shall function in the college in accordance with their free individual opinions.

3) The electoral college referred to shall name five candidates for each vacancy for the office of judge which is to be filled. These candidates shall be appointed by a majority of votes, for which purpose each representative shall cast one vote. When it is necessary to fill a vacancy caused by the completion of the term of a judge, the college shall place the name of the outgoing judge at the top of the above-mentioned list. The ballots of the representatives may be cast in person or by mail, and the Secretariat of the court shall act as the Secretariat of the college.

4) The general assembly shall appoint a regular judge and two alternates, from the list of five candidates submitted to it by the college.

5) The candidates designated by the college may or may not be members of the college, and they shall be elected on the exclusive basis of their technical qualification and personal reputation.

3. In the event that, in a question brought before the court, one of the judges has the same nationality as one of the parties, the other party would have the right to appoint a supplementary judge to the membership of the electoral college.

4. The court may not have more than two judges with the same nationality.

III. Problems Relative to the Duties and Operation of the Court.

A. Jurisdiction

1. The court would be competent for any question that the parties might submit to its jurisdiction.

2. The jurisdiction of the court would be compulsory for the members of the general organization in conflicts of a

juridical nature. In this connection, it would be desirable to give to such conflicts a general designation, to be followed, as an explanatory title, by a reference to the cases foreseen in Article 36 of the Statute of the Permanent International Court of Justice and in the second paragraph of Article 13 of the Covenant of the League of Nations.

3. The court shall determine the limits of its competence. In consequence, exceptions relative to political conflicts and to questions falling under the internal jurisdiction of a State should be heard as exceptions before that court.

4. The court shall hear a case whenever any other means of pacific settlement may have failed or may not have been made effective, and this course may be followed at the request of any of the parties.

5. It seems desirable to allow the court to hear a case suggested to it by the Council.

6. In the event of a conflict between States which are not members of the organization, in the assumption that the general organization is not made universal, it seems desirable to establish that provision be made for the possibility that non-member States subscribe to a clause of submission to the jurisdiction of the court in order that:

a. a State which is not a member of the organization be enabled to go before the court against a member State;

b. a member State should be enabled to go before the court against a non-member State of the organization;

c. the council may transmit to the court juridical conflicts to which non-member States are parties.

7. The council should be empowered to dictate precise measures to impose the jurisdiction of the court or to execute its decisions. In such action by the council the requirements of the procedure relating to a unanimous vote or to a qualified vote should be eliminated or reduced as much as possible; in any event the possible existence of the power of suspensive veto on the part of a great power concerned should be eliminated.

8. A study should be made of a way to differentiate clearly, in the matter of treatment, between a State submitting to the jurisdiction and decisions of the court and a State re-

pudiating them. It seems desirable to recommend that a State repudiating the jurisdiction or decision of the court be suspended from the enjoyment of the rights inherent to membership in the international organization.

9. It seems desirable to recommend that the obligation of the council, in regard to the imposition of the jurisdiction and decisions of the court, be especially compelling in those cases in which the court has acted at the suggestion of the council.

10. In the undertakings of submission to the jurisdiction of the court, implicitly expressed by the signature of the instrument constituting the court, any statement of reservation should be avoided as far as possible.

If this is unavoidable, such reservations should be limited to one or two general formulas. In this connection the following might be considered admissible:

a. A reservation in reference to events which took place before a given date, as, for example, the beginning of hostilities or the signature of peace treaties; and

b. A reservation in reference to relations with States which may be regarded as not submitting to the jurisdiction of the court.

11. In regard to the law applicable, the provision of Article 38 of the statute of the Supreme International Court of Justice does not give occasion to any fundamental objection.

B. Advisory Opinions

12. The court should be enabled to give advisory opinions in juridical questions or on juridical points or aspects of political questions.

13. The following would have the right to petition such opinions:

a. The Assembly;

b. The Council;

c. The International Organization; and

d. The States in particular, by means of restrictions assuring the proper use of this right.

14. The court would decide on its competence for giving an opinion, on the basis of the subject, of the person, or of the international body requesting it.

15. On pertinent points arising in political conflicts, provision should be made to make obligatory the procedure of petitioning the opinion of the court. This requirement might perhaps be made effective by establishing that a qualified minority of the council would be enabled to call for the required petition.

C. Complementary Duties

16. The court shall have the following complementary duties:

a. It should be a supreme court within the international administrative system. In this regard, it should have the power to settle conflicts of competence between international bodies and should be able to set itself up as a court of appeal for questions coming in first instance under the jurisdiction of other international administrative courts which may be created.

D. Procedure

17. The court should determine its own procedure, which might be similar to that of the permanent international court of justice.

18. The decisions should require an absolute majority of the members of the court.

19. The court should be considered as the successor of the Permanent Court of International Justice. In this regard, the signatory states of the agreement should indicate that all powers and duties granted by previous conventions to the Permanent Court of International Justice should be regarded as granted to the court which is to be created within the new organization.

☆ GPO JACKET-640451

The United Nations Conference
on International Organization

Doc. 2 (ENGLISH)
G/25
May 5, 1945

GENERAL

AMENDMENTS TO THE DUMBARTON OAKS PROPOSALS SUBMITTED BY THE DELEGATIONS OF BRAZIL, THE DOMINICAN REPUBLIC, AND THE UNITED STATES OF MEXICO

The Delegations of Brazil, the Dominican Republic, and the United States of Mexico submit the following amendments to the Dumbarton Oaks Proposals:

> Inclusion under Chapter I, Purposes, at any appropriate point, of the following paragraph: To ensure respect for human rights and fundamental freedoms, without discrimination against race, sex, condition, or creed.

JUSTIFICATION

In support of the above, we point out that the proposal is in accord with the progress and development of international law and policy, as most recently affirmed by the Final Act of the Inter-American Conference on Problems of War and Peace, approved in Chapultepec, Mexico, March 7, 1945.

The Delegations of Brazil, the Dominican Republic, and the United States of Mexico submit the following amendment to the Dumbarton Oaks proposals:

> Inclusion under Chapter V, at any appropriate point, of the following paragraph: Representation and participation in the General International Organization shall be open to men and women under equal conditions.

JUSTIFICATION

In support of the above, we point out that the proposal is in accord with the evolution of international law

and policy, as affirmed frequently, and most recently in the Final Act of the Inter-American Conference on Problems of War and Peace, approved in Mexico City, March 7, 1945.

The Delegations of Brazil, the Dominican Republic, and the United States of Mexico submit the following amendment to Chapter IX, Arrangements for International Economic and Social Cooperation, Section A, Purpose and Relationships, paragraph I of the Dumbarton Oaks Proposals (line 15 to 16 of Doc I G/1):

> ... and promote respect for human rights and fundamental freedoms and foster the democratic principle of equality of status, opportunity, and responsibility for men and women. Responsibility for the discharge of this function... etc..

JUSTIFICATION

This amendment is in accord with the development of international policy and law as demonstrated in former legal instruments and recently affirmed in the Inter-American Conference on Problems of War and Peace.

The Delegations of Brazil, the Dominican Republic, and the United States of Mexico submit the following amendment to Chapter X, The Secretariat, paragraph I of the Dumbarton Oaks Proposals (lines 7 to 8 of Doc. 1 G/1):

> I. There should be a Secretariat comprising a Secretary-General and such staff as may be required, all positions being open equally to men and women. The Secretary-General etc..

- ---

JUSTIFICATION

This proposal is in agreement with the continuous development of international law and policy, as reflected in the Covenant of the League of Nations, Article VII, Paragraph 3, which reads: "All positions under or in connection with the League, including that of the Secretariat, shall be open equally to men and women", and more recently reaffirmed by the Inter-American Conference on Problems of War and Peace

The United Nations Conference
on International Organization

Doc. 2 (ENGLISH)
G/28
May 6, 1945

GENERAL

JOINT DRAFT AMENDMENT TO CHAPTER VIII, SECTION C, OF THE DUMBARTON OAKS PROPOSALS BY THE DELEGATIONS OF CHILE, COLOMBIA, COSTA RICA, ECUADOR, AND PERU

The following form is proposed as a development of the principles enunciated in Chapter VIII, Section C of the Dumbarton Oaks Proposals:

I. It is recognized that the existence of systems of a regional nature founded on permanent agreements which would have the same purposes, aims, and objectives as the Organization of the United Nations can be of great use in the maintenance of international peace and security.

II. The Security Council shall be permanently and amply informed concerning the activities of such regional systems.

III. Agreements which may be concluded with the object of establishing systems of a regional nature for the maintenance of international peace and security must be submitted to the Security Council for its examination and approval; the Council may, before granting its approval, inspect and watch, for whatever period it may deem wise, the organization and activities of any such system.

IV. Disputes or conflicts arising between States which belong to a given regional system shall be settled according to the agreements or statutes of that system if it has been approved by the Security Council or declared, in the present instrument, compatible with the ends and purposes of the United Nations; and this will not prevent the Security Council from fulfilling the functions assigned to it, when it has not been or is not possible to settle the dispute or conflict satisfactorily by applying the measures contemplated in the corresponding

regional agreement or statutes, and it will be the duty of the said regional body to determine, in agreement with the procedure set forth in its statutes, when such a case arises.

V. It is declared expressly that the Pan-American system is compatible with the aims, purposes, and objectives of the Organization of the United Nations, and that, in consequence, it shall continue functioning autonomously as has been set forth in the preceding paragraph.

VI. The fact that a state is a member of the regional body does not relieve it of any of the obligations that it may assume in the present instrument towards all and each of the other United Nations.

The United Nations Conference on International Organization

Doc. 2 (ENGLISH)
G/29
May 5, 1945

GENERAL

AMENDMENTS PROPOSED BY THE GOVERNMENTS OF THE UNITED STATES, THE UNITED KINGDOM, THE SOVIET UNION, AND CHINA

The Delegations of the four Governments which participated in the Dumbarton Oaks Conversations, the United States, the United Kingdom, the Soviet Union, and China, have consulted together concerning amendments to the Dumbarton Oaks Proposals which each of them desired to submit. The proposed amendments on which the four find themselves in agreement are submitted to the Conference as joint proposals. Such further amendments as each of these Governments may wish to propose will be presented separately.

(Note: Amendments are indicated by underscoring added passages and striking out deleted passages.)

CHAPTER I. PURPOSES

1. To maintain international peace and security; and to that end to take effective collective measures for the prevention and removal of threats to the peace and the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and with due regard for principles of justice and international law, adjustment or settlement of international disputes which may lead to a breach of the peace.

2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples and to take other appropriate measures to strengthen universal peace;

3. To achieve international cooperation in the solution of international economic, social, cultural and other humanitarian problems and promotion and encouragement of respect for human rights and for fundamental freedoms for all without

distinction as to race, language, religion or sex; and

CHAPTER II. PRINCIPLES

1. The Organization is based on the principle of the sovereign equality of all ~~peace-loving states~~ its members.

3. All members of the Organization shall settle their international disputes by peaceful means in such a manner that international peace and security are not endangered.

New paragraph to be added following paragraph 6, to take the place of paragraph 7 of Chapter VIII, Section A, which would be deleted:

Nothing contained in this Charter shall authorize the Organization to intervene in matters which are essentially within the domestic jurisdiction of the State concerned or shall require the members to submit such matters to settlement under this Charter; but this principle shall not prejudice the application of Chapter VIII, Section B.

CHAPTER V. THE GENERAL ASSEMBLY
Section B. Functions and Powers

6. The General Assembly should initiate studies and make recommendations for the purpose of promoting international co-operation in political, economic, ~~and~~ social and cultural fields to assist in the realization of human rights and basic freedoms for all, without distinction as to race, language, religion or sex and also for the encouragement of the development of international law ~~and of adjusting situations likely to impair the general welfare~~.

New paragraph to follow paragraph 7:

The General Assembly should examine the administrative budgets of such specialized agencies with a view to making recommendations to the agencies concerned.

CHAPTER VI. THE SECURITY COUNCIL
Section A. Composition

The Security Council should consist of one representative of each of eleven members of the Organization. Representatives of the United States of America, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the Republic of China, and, in due course, France, should have permanent seats. The General Assembly should

elect six states to fill the non-permanent seats, due regard being specially paid in the first instance to the contribution of members of the Organization towards the maintenance of international peace and security and towards the other purposes of the Organization, and also to equitable geographical distribution. These six states should be elected for a term of two years, three retiring each year. They should not be immediately eligible for reelection. In the first election of the non-permanent members three should be chosen by the General Assembly for one-year terms and three for two-year terms.

Section D. Procedure

2. The Security Council should be empowered to set up such bodies or agencies as it may deem necessary for the performance of its functions. ~~including regional sub-committees of the Military Staff Committee.~~

5. Any member of the Organization not having a seat on the Security Council and any state not a member of the Organization, if it is a party to a dispute under consideration by the Security Council, should be invited to participate in the discussion relating to the dispute. In the case of a non-member, the Security Council should lay down such conditions as it may deem just for the participation of such a non-member.

CHAPTER VII. AN INTERNATIONAL COURT OF JUSTICE

The provisions of Chapter VII of the Dumbarton Oaks Proposals should be adjusted to bring it into conformity with the recommendations of Commission IV in light of the report of the Jurists Committee.

CHAPTER VIII. ARRANGEMENTS FOR THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY INCLUDING PREVENTION AND SUPPRESSION OF AGGRESSION

Section A. Pacific Settlement of Disputes

The following new paragraph should be inserted before Paragraph 1 of Section A of Chapter VIII:

Without prejudice to the provisions of paragraphs 1-5 below, the Security Council should be empowered, if all the parties so request, to make recommendations to the parties to any dispute with a view to its settlement in accordance with the principles laid down in Chapter II, Paragraph 3.

2. Any state, whether member of the Organization or not, may bring any such dispute or situation to the attention

of the General Assembly or of the Security Council. In the case of a non-member, it should be required to accept, for the purposes of such dispute, the obligations of pacific settlement provided in the Charter.

4. If, nevertheless, parties to a dispute of the nature referred to in paragraph 3 above fail to settle it by the means indicated in that paragraph, they should obligate themselves to refer it to the Security Council. ~~The~~ If the Security Council ~~should in each case decide whether or not~~ deems that the continuance of the particular dispute is in fact likely to endanger the maintenance of international peace and security, ~~and, accordingly, whether the Security Council should deal with the dispute, and, if so, whether it should take action under paragraph 5~~ it shall decide whether to take action under paragraph 5 or whether itself to recommend such terms of settlement as it may consider appropriate.

7. ~~The provisions of paragraph 1 to 6 of Section A should not apply to situations or disputes arising out of matters which by international law are solely within the domestic jurisdiction of the state concerned.~~

(Note: This paragraph would be replaced by the new paragraph proposed for addition following paragraph 6, Chapter II, Principles.)

Section B. Determination of Threats to the Peace or Acts of Aggression and Action with Respect Thereto

1. Should the Security Council deem that a failure to settle a dispute in accordance with procedures indicated in paragraph 3 of Section A, or in accordance with its recommendations made under paragraphs 4 or 5 of Section A, constitutes a threat to the maintenance of international peace and security, it should take any measures necessary for the maintenance of international peace and security in accordance with the purposes and principles of the Organization.

2. In general the Security Council should determine the existence of any threat to the peace, breach of the peace or act of aggression and should make recommendations or decide upon the measures set forth in paragraphs 3 and 4 of this Section to be taken to maintain or restore peace and security.

Insert the following paragraph between paragraphs 2 and 3:

Before making the recommendations or deciding upon the measures for the maintenance or restoration of peace and security in accordance with the provisions of paragraph 2, the Security Council may call upon the parties concerned to comply with such provisional measures as it may deem necessary or desirable in order to prevent an aggravation of the situation. Such provisional measures should be without prejudice to the rights, claims or position of the parties concerned. Failure to comply with such provisional measures should be duly taken account of by the Security Council.

9. There should be established a Military Staff Committee the functions of which should be to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, to the employment and command of forces placed at its disposal, to the regulation of armaments, and to possible disarmament. It should be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. The Committee should be composed of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any member of the Organization not permanently represented on the Committee should be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires that such a state should participate in its work. Questions of command of forces should be worked out subsequently. The Military Staff Committee, with the authorization of the Security Council, may establish regional subcommittees of the Military Staff Committee.

CHAPTER IX. ARRANGEMENTS FOR INTERNATIONAL ECONOMIC AND SOCIAL COOPERATION

Section A. Purpose and Relationships

1. With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the Organization should facilitate solutions of international economic, social, cultural, and other humanitarian problems and promote respect for human rights and for fundamental freedoms for all without distinction as to race, language, religion or sex. Responsibility for the discharge of this function should be vested in the General Assembly, and under the authority of the General Assembly, in an Economic and Social Council.

Section C. Functions and Powers of the Economic and Social Council

1. The Economic and Social Council should be empowered:

Insert after paragraph a, new paragraph as follows:

To make recommendations for promoting respect for human rights and fundamental freedoms;

b. To make recommendations, on its own initiative with respect to international economic, social, cultural and other humanitarian matters;

c. To receive and consider reports from the economic, social, cultural and other organizations or agencies brought into relationship with the Organization, and to coordinate their activities through consultations with, and recommendations to, such organizations or agencies;

Section D. Organization and Procedure

1. The Economic and Social Council should set up ~~an economic commission, a social commission and such other commissions as may be required~~ commissions in the fields of economic activity, social activity, cultural activity, promotion of human rights and any other field within the competence of the Council. These commissions should consist of experts. There should be a permanent staff which should constitute a part of the Secretariat of the Organization.

CHAPTER X. THE SECRETARIAT

1. There should be a Secretariat comprising a Secretary-General, four deputies and such staff as may be required. ~~The Secretary General should be the chief administrative officer of the Organization. He should be elected by the General Assembly, on recommendation of the Security Council, for such term and under such conditions as are specified in the Charter.~~ The Secretary-General and his deputies should be elected by the General Assembly on recommendation of the Security Council for a period of three years, and the Secretary-General should be eligible for re-election. The Secretary-General should be the chief administrative officer of the Organization.

4. In the performance of their duties, the Secretary-General and the staff should be responsible only to the Organization. Their responsibilities should be exclusively international in character, and they should not seek or receive

instructions in regard to the discharge thereof from any authority external to the Organization. The members should undertake fully to respect the international character of the responsibilities of the Secretariat and not to seek to influence any of their nationals in the discharge of such responsibilities.

CHAPTER XI. AMENDMENTS

1. The present Charter comes into force after its ratification in accordance with their respective constitutional processes by the members of the Organization having permanent seats on the Security Council and by a majority of the other members of the Organization.

Note: The existing text of Chapter XI would become paragraph 2.

2. A general conference of the members of the United Nations may be held at a date and place to be fixed by a three-fourths vote of the General Assembly with the concurrence of the Security Council voting in accordance with the provisions of Chapter VI, Section C, paragraph 2, for the purpose of reviewing the Charter. Each member shall have one vote in the Conference. Any alterations of the Charter recommended by a two-thirds vote of the Conference shall take effect when ratified in accordance with their respective constitutional processes by the members of the Organization having permanent membership on the Security Council and by a majority of the other members of the Organization.

UNIVERSITY OF ILLINOIS-URBANA
3 0112 106700146